

EXHIBIT 41

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEW JERSEY
3 CIVIL ACTION CASE NO. 2:08-CV-1567

4 DR. FADI CHAABAN; DR. SABINO R. TORRE, DR. :
5 CONSTANTINOS A. COSTEAS and DR. ANTHONY J. :
6 CASELLA, as Trustee of Diagnostic & Clinical :
7 Cardiology, P.A. Profit Sharing Plan, :

8 Plaintiffs,

9 vs.

10 DR. MARIO A. CRISCITO,

11 Defendant.

12 -----
13 Wednesday, July 15, 2009

14 Deposition of BRIAN WARNOCK, VOLUME II,
15 before Nancy A. Miani, a Certified Court Reporter,
16 License No. XI00814, and a Notary Public of the State
17 of New Jersey at the offices of WITMAN, STADTMAUER,
18 ESQS, 26 Columbia Turnpike, Florham Park, New Jersey,
19 on Wednesday, July 15, 2009, at 10:10 a.m.

20
21 MIANI COURT REPORTING
22 CERTIFIED COURT REPORTERS
23 1741 DANIEL COURT
24 WALL, NJ 07719
25 (732) 681-4776

ORIGINAL

1 A P P E A R A N C E S:

2 WITMAN, STADTMAUER, ESQS.
26 Columbia Turnpike
3 Florham Park, NJ 07932
By: STEPHEN M. CHARME, ESQ.
4 Attorneys for the Plaintiffs

5 KERN, CONROY & SCHOPPMANN, P.C.
1120 Route 22 East
6 Bridgewater, NJ 08807
BY: STEVEN KERN, ESQ.
7 AND CHARLES H. NEWMAN, ESQ.
Attorneys for the Defendant

8
9 ALSO PRESENT:

10 Anthony Casella, M.D.

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1 B R I A N W A R N O C K,
2 American Pension Corporation, 1375 Plainfield Avenue,
3 Watchung, New Jersey, resworn.

4 CONTINUED CROSS EXAMINATION BY MR. KERN:

5 Q. I want to begin by turning to what's been
6 previously marked Warnock-8.

7 A. Okay.

8 Q. Can I start? Okay. Now, is this a copy
9 of the 5500 that was in your file?

10 A. Yes. Yes.

11 Q. I note that on the third page of this
12 exhibit, marked 25958, there is no signature of the
13 employer or plan sponsor. Do you know why that is?

14 A. No, I don't.

15 Q. And who was the plan sponsor?

16 A. Well, the employer would be, so an
17 officer of Diagnostic would sign.

18 Q. I also note on the first page of the
19 document that there is no signature of either the plan
20 administrator or of the employer, plan sponsor, right?

21 A. That is correct.

22 Q. That was 25946. Would this have gone out
23 to the IRS in this form?

24 A. No. We send the forms to Dr. Criscito or
25 to the employer. He signs it, sends it into the IRS.

1 We don't always necessarily get a signed copy.

2 Q. How would you get a signed copy?

3 A. We ask them to send us a signed copy just
4 so we have it in our file as evidence that it was
5 done, but some people send it back, some people don't.

6 Q. If we go to Page 259 -- no number on this
7 one. The fifth page, one, two, three, four -- fifth
8 page.

9 A. 25959.

10 MR. KERN: Is there a stamp on this one?

11 MR. CHARME: I don't see it.

12 Q. It's the fifth page of what's been marked
13 Warnock-8. It doesn't have a Bate stamp on it.

14 A. All right.

15 Q. Is it your testimony that this form would
16 have gone to Dr. Criscito unsigned, and he would have
17 returned it to you with a signature, a copy to you
18 with a signature?

19 A. He would send us one page. We send him
20 the forms to sign, send the whole package into the
21 IRS, and then we send one page, one blank first page
22 for him to sign and send back to us, and that way we
23 have it in the file, and it's really for if the IRS
24 ever asks, A, we didn't get the form or whatever, we
25 got it late, we can say no, he filed it on this day,

1 and he even sent us a copy saying -- with the same
2 date. That's the reason we ask for it.

3 Q. You see the signatures on the bottom of
4 this page?

5 A. Yes, I do.

6 Q. Do they appear to be two different
7 signatures, the signature of the second individual?

8 A. I would think they were the same.

9 Q. They don't look different to you?
10 MR. CHARME: Asked and answered.

11 Objection.

12 Q. They don't look different to you?

13 A. One has an A in it and one doesn't.

14 Q. Let's go down two more pages. This is
15 another page which is not Bate stamped, but on the
16 bottom page it says October 19th, 2004. Do you have
17 that one? Again, two signatures?

18 A. Yes.

19 Q. Do they appear to be the same signature
20 of the same person?

21 A. They do look somewhat different, somewhat
22 the same.

23 Q. Do you have any explanation for it?

24 A. No idea.

25 Q. Okay. Let's go then to Warnock-9.

1 A. Okay.

2 Q. This is a report that you believe you
3 received from Dr. Criscito in 1998?

4 A. Yes.

5 Q. And it indicates that there are monies in
6 this commingled account in a number of different
7 repositories, correct?

8 A. Correct.

9 Q. Was there ever a time when there was a
10 determination that monies, for example, in Dean Witter
11 belonged to certain participants, and monies that
12 belonged in Schwab belonged to other participants, or
13 was this, for your purposes, treated as one pool of
14 money?

15 MR. CHARME: I object to the form.

16 A. It was one pool of money.

17 Q. All right. And did that hold true during
18 the entire period that you were involved in this
19 account?

20 MR. CHARME: Same objection to the form.

21 A. It would hold true for the commingled
22 account, yes. We did get a separate report, for
23 example, for Dr. Casella, completely --

24 Q. I'm just talking about the commingled
25 account.

1 A. Right.

2 Q. So whether the money was in Dean Witter,
3 in Schwab, in Smith Barney, in Morgan Stanley, your
4 only concern was the totality of the money, and it
5 wasn't as though one participant's money was part of
6 the Dean Witter account, and another person's money
7 was part of the Schwab account, the third
8 participant's money was part of the Morgan Stanley
9 account, right?

10 MR. CHARME: Objection to form.

11 A. That is correct, it was all just one big
12 pot.

13 Q. So when it came time to determining a
14 distribution number, or how much money was -- when it
15 came time to distributing money out of the commingled
16 account, it was the total pool of money that was at
17 issue, correct?

18 A. Correct.

19 Q. And in determining how much money was
20 still in the commingled account for an individual,
21 that was also based upon the totality of money in all
22 of the accounts, correct?

23 MR. CHARME: I object to the form.

24 A. I'm not sure of the question.

25 Q. If somebody didn't take a distribution,

1 we do, which shows the payouts. So I don't think we
2 just got that 720,979.46. I believe there is
3 additional information that we were provided saying
4 who that money went to.

5 Q. Where would that information have come
6 from?

7 A. It would have come from Dr. Criscito.

8 Q. Dr. Criscito or Dr. Casella?

9 A. Criscito.

10 Q. Why would it have come --

11 A. Because he made the payouts, you know.
12 Dr. Casella didn't have access to this account.

13 Q. Who would have told Criscito how much to
14 distribute?

15 A. We told him when we did the 1999 report.

16 Q. So the 720,000 number should have
17 initially come from you, correct?

18 MR. CHARME: I object to the form.

19 A. Yes, we did the 1999 report, broke out,
20 showed everybody what the account balances, he was
21 separating it, and was going to take those numbers and
22 pay it out to the individual people.

23 Q. So there should be documentation in your
24 file instructing him to take out the \$720,000?

25 MR. CHARME: I object to the form.

1 in the same at 18.75. Gonnella, she was, I was saying
2 before about the top heavy minimum benefits, and she
3 must have worked under a thousand hours or something
4 like that, then she went down to part-time, so she
5 wasn't entitled to the full contribution, so that's
6 why she only got three percent.

7 Q. And then the top heavy report, if I read
8 correctly, indicates that as of 12/31/99, Dr.
9 Criscito's interest in that account was 85.51 percent
10 of the total?

11 A. That's correct.

12 Q. And I take it that when money was
13 distributed out of that account in 2000, even if the
14 distribution was less than the total amount that was
15 due to each of the remaining employees, that would
16 have resulted in Dr. Criscito's interest increasing,
17 percentage increase, increase --

18 A. Give me that again.

19 MR. CHARME: Objection to the form.

20 Q. If Dr. Criscito is at 85 percent, round
21 the numbers, and let's say half of the total amount,
22 due to the other employees, was then segregated out
23 into individual accounts.

24 A. Okay.

25 Q. And half remained or should have remained

1 in the commingled account.

2 A. Right.

3 Q. So if half were removed out, instead of
4 Dr. Criscito then having an 85 percent interest, from
5 that point forward, his interest would have been
6 roughly 97 percent, correct?

7 MR. CHARME: I object to the form.

8 A. That's correct. That's correct.

9 Q. Okay. Going back then to Warnock-9, Page
10 25870. Okay?

11 A. Okay.

12 Q. Is it your understanding that \$721,000,
13 roughly, was monies that were distributed to
14 participants other than Dr. Criscito during the year
15 2000?

16 A. Based on -- I would have to look at the
17 2000 report, but yes, basically, that's what it is.

18 Q. And just for purposes of the
19 hypothetical, if all of the monies for all of these
20 people had been distributed out, that number, instead
21 of \$720,000, should have been a million six, or
22 roughly \$900,000 more, to the extent that those monies
23 remained in the commingled account, those monies were
24 available to be distributed at a future time to these
25 individuals, correct?

1 that you only get them annually rather than monthly?

2 A. I'm not aware of any request like that,
3 no.

4 Q. In this letter, you indicate that your
5 relationship with Dr. Criscito was always cordial,
6 both you and Dominique Eck. Is that correct?

7 A. That's correct.

8 Q. And you previously testified that you
9 made note at one point to the effect that Dr. Criscito
10 said that if you gave out information to other people
11 concerning the value of the accounts, he was going to
12 beat you, and then you testified, and I'll quote you,
13 "I don't think he was going to beat me, but he would
14 -- he certainly would have been mad if it had
15 happened." Is that correct?

16 MR. CHARME: I object to the form. The
17 testimony speaks for itself.

18 A. That is correct.

19 Q. And despite that comment from him, you
20 continued to believe that your relationship with him
21 was always cordial, correct?

22 A. Yes.

23 Q. You didn't believe he was really coming
24 down and beat you, correct?

25 A. I don't think he would have beat us. I

1 think he would have fired us.

2 Q. All right. You certainly, you didn't
3 call the police or get worried that he was going to do
4 you physical harm?

5 A. No, I did not feel physically threatened.

6 Q. Okay. Who would know what happened --
7 strike that. Let me start again. Break it down.

8 With regard to participants who were no
9 longer with DCC at the time that monies were
10 transferred in 2000, who would know where those monies
11 were transferred and what happened to those monies
12 after 2000?

13 A. I lost you on that one.

14 Q. Okay. Participant Jones had a
15 distribution in March of 2000, hypothetically, of
16 \$10,000 based upon the numbers that were provided to
17 Morgan Stanley. That \$10,000 either rolls over into
18 another account, is taken as a distribution, or
19 something, correct?

20 A. Right.

21 Q. Who would have the information concerning
22 where that money went?

23 A. Morgan Stanley would have that.

24 Q. You would not have any information
25 concerning that?

1 that actually happened or not, I could not say.

2 Q. Page 126 of your last session, you were
3 asked --

4 A. Which exhibit are we on?

5 Q. Page 126 of the transcript.

6 MR. CHARME: He doesn't have a copy.

7 Q. I'll read it to you.

8 You testified that "we," being APC,
9 "would send the participant statements for the
10 commingled account to Dr. Criscito and then he would
11 hand them out to the participants."

12 Do you have any knowledge that he
13 personally handed these out to the participants?

14 A. No.

15 Q. For all you know, he could have given
16 them to the secretary or to somebody else and say
17 here, give these out to the individual people?

18 A. Right. We gave them to him to provide to
19 the participants. What he did with them, I don't --

20 Q. You don't know what he did with them?

21 A. Right.

22 MR. KERN: Mark this.

23 (Exhibit Warnock-25 is received and
24 marked by the Reporter for Identification.)

25 Q. Have you seen this document before?

1 A. This is from our file.

2 Q. Okay. Why was this document created?

3 A. This would have been done as part of the
4 closing out the commingled account, transferring it
5 into all separate accounts. Everyone was being
6 advised that they have an account, they can now direct
7 their own investments, and they're all going to have
8 separate accounts.

9 Q. Is this a result of the request of Dr.
10 Chaaban and Mr. Brown and others to maintain
11 segregated accounts?

12 A. When you asked me that question, I
13 speculated that that is what the cause was, that a lot
14 of the doctors, people with bigger accounts wanted
15 their control. So yeah, this was the whole thing,
16 that they were going to get rid of the segregated
17 accounts, split it all up.

18 Q. Do you know what, in particular,
19 precipitated this November 23rd letter? Did you get a
20 call? If so, from whom? Did you receive any letter,
21 e-mail, something?

22 A. Well, because the letter. It says the
23 letter you requested, it's a letter to Dr. Criscito,
24 for the active participants in the pension plan. So
25 -- he's giving him the election forms. You asked

1 a separate account with Morgan Stanley.

2 Q. So they didn't have a choice, it happened
3 automatically?

4 A. It happened automatically. We gave them
5 this letter.

6 Q. But this letter --

7 A. Theoretically, they could have gone and
8 said I don't want Morgan Stanley, I would like an
9 account set up somewhere else, but that did not
10 happen.

11 Q. And when did this notice go out to the
12 active plan participants?

13 A. Well, we gave them the notice November
14 23rd, he had requested it, so I assume fairly soon,
15 fairly soon after that.

16 Q. So --

17 A. He was gearing it up. Like I said, we
18 did the whole thing on January 13th, 2000, so, you
19 know, Doctor Criscito is moving forward to get this
20 done, and he wanted to get it accomplished.

21 Q. According to this letter, the separate
22 account had already been established for each active
23 participant.

24 A. Well, no, it's saying you have an
25 account, each participant can now direct their own

1 MR. KERN: I have nothing else at this
2 time. Hopefully we're finished. I'm going to ask you
3 to get me these documents, and I may need to call you
4 back.

5 MR. CHARME: Of course, I have a bunch of
6 stuff.

7 REDIRECT EXAMINATION BY MR. CHARME:

8 Q. At your last deposition -- you realize
9 you're still under oath?

10 A. Yes.

11 Q. At your last deposition session, you were
12 asked if Dr. Criscito -- I'm sorry -- if you ever made
13 a specific request to Dr. Criscito for any backup that
14 he failed to provide. You said, this is Page 118: "I
15 don't believe so. If he gave us a list of the assets,
16 we would take that."

17 Did you believe that the information you
18 were receiving from Dr. Criscito was accurate and
19 honest over the years?

20 A. Yes.

21 Q. Okay. So had he ever done anything to
22 make you suspect that he was providing you with
23 information that was not accurate or honest?

24 A. No.

25 Q. And when he provided you information as

1 to the value of the assets in the commingled account
2 each year, you believed he was giving you accurate and
3 honest information, right?

4 A. Yes.

5 Q. Okay. The only person from DCC who gave
6 you information as to the value of the assets in the
7 commingled account was Dr. Criscito, correct?

8 A. That is correct.

9 Q. Okay. There was also -- withdrawn.

10 We previously looked at a document, you
11 know the one I'm referring to, where it says Dr.
12 Casella discovered this, it was the Morgan Stanley
13 2000 statement, said this is a big problem. You
14 remember that document?

15 A. Yes.

16 Q. Okay. Was that the first time that you
17 had reason to doubt the accuracy and honesty of the
18 year end values that Dr. Criscito had provided for
19 1999?

20 A. Yes.

21 Q. Okay. So the reason you never asked Dr.
22 Criscito for any kind of backup information over the
23 years was you trusted him, right?

24 A. Yes, we did.

25 Q. You thought he was an honest person?

1 A. Yes, we did.

2 Q. And he had never done anything to make
3 you think otherwise, correct?

4 A. Correct.

5 Q. There was some discussion at your last
6 session about conversations you had with Dr. Casella
7 concerning contributions being made to the plan. I
8 just want to make sure that I have something clear.

9 The value of the commingled account is
10 separate and apart from whatever contributions are
11 made to the plan, correct?

12 A. Well, the only money that goes into it
13 affects the value.

14 Q. Sure. But the fact that certain amounts
15 of contributions goes into the plan doesn't guarantee
16 what value the plan will have at the end of the year,
17 does it?

18 A. No.

19 Q. So knowing the amount of contribution
20 that goes into the plan the end of the year is not a
21 substitute for someone giving you an accurate number
22 as to the year end values, is it?

23 A. No, you need the year end values.

24 Q. You need the year end values, right?

25 A. Yes.

1 A. I don't know if they were handed out.

2 Q. But they were supposed to be?

3 A. They were supposed to be.

4 Q. And it's your -- is it your understanding
5 that the trustee of a plan is supposed to insure that
6 summary annual reports are handed out to the
7 participants in the plan?

8 MR. KERN: Objection.

9 A. It's probably the plan administrator's
10 obligation more than the trustee's.

11 Q. Do you know who the plan administrator of
12 --

13 A. It's just the employer, it's Diagnostic &
14 Clinical Cardiology.

15 Q. I believe you testified that Dr. Criscito
16 was the boss of Diagnostic?

17 A. Yes.

18 Q. Okay. So if he was the boss of
19 Diagnostic, would it be your understanding that as
20 the boss, he would take steps to ensure that the
21 summary annual description -- I'm sorry -- summary
22 plan description was handed out to participants?

23 A. Yes.

24 Q. Now, you testified at your last
25 deposition session that before 2007, when Dr. Casella

1 came in, this is at Page 129, that you had never
2 requested any statements from Morgan Stanley on the
3 commingled account, correct?

4 A. That's correct.

5 Q. Okay. And the reason you hadn't done so
6 was you trusted Dr. Criscito, didn't you?

7 A. Yes.

8 Q. You believed that he was giving you
9 accurate and honest information, didn't you?

10 MR. KERN: You've now asked that about
11 six times. You can ask it six more, it's your
12 depositions.

13 A. Yes, yes, yes, yes, yes, yes. Cover all
14 six.

15 Q. Thank you. You were asked both the last
16 time around and this time, you know, what your
17 understanding is as to the duties of a third party
18 administrator. Is it your understanding that a third
19 party administrator is required to audit information
20 as to year end values that are given to you?

21 A. We are not required to audit.

22 Q. Is it your understanding that a third
23 party administrator is required to independently
24 verify year end values that are given to you?

25 A. No.

1 Q. Okay. So basically, you rely on the
2 integrity of the person supplying that information to
3 you, correct?

4 A. That is correct.

5 Q. Okay. Let me just, the last time around
6 there was some discussion as to your obtaining census
7 information, and on Page 155, you said it was probable
8 that back in 1990, maybe Dr. Casella wasn't the person
9 who was giving you the census information. I'd like
10 to show you some documents to see if we can pin this
11 down.

12 MR. CHARME: I'm going to ask the
13 reporter to mark as 27 a document Bate stamped 10599.

14 (Exhibit Warnock-27 is received and
15 marked by the Reporter for Identification.)

16 Q. Mr. Warnock, have you seen that before?

17 A. I don't particularly recall this, but
18 it's from our file.

19 Q. Okay. This is an employee census form?

20 A. Yes.

21 Q. Looking at the form, are you able to tell
22 who provided you with this information?

23 A. Not really.

24 Q. So you don't know whether it was from Dr.
25 Casella, Dr. Criscito, or somebody else?

1 Well, let me rephrase that. Okay.

2 Because he wouldn't want me talking to anybody, but as
3 far as what a person had in their account, I don't
4 remember that being any problem with people saying we
5 don't know how much money is in our account, everybody
6 being mad about that. We have plans like that, where
7 employers don't tell them anything, you know, I don't
8 even know about my account. That was never an issue
9 with this plan, people calling me, begging me to tell
10 them how much money is in their account, and me having
11 to say go talk to Dr. Criscito. I don't think that
12 happened.

13 Q. Were you aware whether any participants
14 had asked Dr. Criscito for information about the value
15 of their accounts and were not satisfied with the
16 answer?

17 A. No. No.

18 Q. So you don't know one way or the other --

19 A. I don't know one way or the other.

20 Q. -- what the story was with participants
21 getting information directly from Dr. Criscito, do
22 you?

23 A. No.

24 Q. Now, at your last deposition, this was
25 concerning a loan that was taken out. At Page 141,

1 you testified that when Dr. Criscito said I paid it
2 off, that you assumed he had paid off the loan,
3 correct?

4 A. That's correct.

5 Q. But APC isn't an auditor, right?

6 A. That's correct.

7 Q. So am I correct that APC never performed
8 any kind of audit or any other kind of independent
9 verification to determine that Dr. Criscito did, in
10 fact, pay off the loan?

11 A. We did not.

12 Q. You did not?

13 A. No.

14 Q. So the only basis you have for saying
15 that the loan was paid off is because that's what Dr.
16 Criscito told you, correct?

17 A. That is correct.

18 Q. I want to talk to you about exhibits that
19 we marked the last time, Warnock-5 and Warnock-6.
20 Let's start with Warnock-5, which involved \$25,531.60.
21 The last time -- this was at Page 141 -- you testified
22 that you had no reason to believe the extra money
23 that's referred to on Warnock-5 was a contribution,
24 that no one had complained, and that therefore, it was
25 okay to use that money to reduce Dr. Criscito's loan.

1 that you believe Dr. Criscito owned 85 percent of the
2 commingled account. Is that right?

3 A. Approximately.

4 Q. Approximately that?

5 A. Yeah.

6 Q. What did you base that percentage on?

7 A. On the annual reports.

8 Q. Okay. Was it your understanding that Dr.
9 Criscito was entitled, when the accounts were
10 segregated, to withhold money from participants to
11 which they were entitled?

12 A. No.

13 MR. KERN: Would you repeat that.

14 (The preceding question and answer are
15 read back by the Reporter.)

16 A. No.

17 Q. So he wasn't entitled to hold back money
18 from participants on the theory that as long as he
19 kept it in the commingled account, he can keep -- he
20 can give it to them one day, correct?

21 A. No, the terminated participants would be
22 paid the full value of the account.

23 Q. And in 2000, when the active participants
24 had individual segregated accounts, they were entitled
25 to be paid the full value, as well, correct?

1 A. Yes.

2 Q. Do you have your letter, which is Exhibit
3 23? Here it is. Okay. Exhibit -- I'd like to look
4 at Warnock-23, which is your letter dated June 30,
5 2009, and the attachments.

6 MR. KERN: Can I have a second. I need
7 to get my copy.

8 Is this what you're looking at? 23.

9 MR. CHARME: Okay.

10 Q. Your letter is not in the form of a sworn
11 statement, correct?

12 A. That is correct.

13 Q. You understand that you are under oath
14 today, correct?

15 A. Yes.

16 Q. I'm going to ask you now if you are
17 prepared to swear to the truth and accuracy as to the
18 contents of your letter as if this was an affidavit
19 that you were submitting under oath. Are you prepared
20 to do that?

21 A. Yes.

22 Q. Okay. I'm going to show you what was
23 marked as Warnock-13. I believe there was some
24 testimony today about the letter "R" on the second
25 page indicates this was a rollover. Is that correct?

1 trustee, to make sure the plan operates the way it's
2 supposed to?

3 A. Yes.

4 Q. Okay. Now, with regard to active
5 participants, so we clear up any confusion, when the
6 accounts were segregated in 2000, the active
7 participants were entitled to have allocated to them
8 the full value to which they were entitled, correct?

9 A. Right, allocated to their segregated
10 account.

11 Q. Right.

12 A. Not distributed from the plan.

13 Q. Right. And in order to have the correct
14 value allocated to their segregated account, you
15 needed to know the correct year end value for 1999,
16 correct?

17 A. That is correct.

18 Q. Since the year end value for 1999 was off
19 by millions of dollars, the active participants wound
20 up not having the correct value allocated to their
21 segregated accounts, correct?

22 A. That is correct.

23 MR. CHARME: I have no further questions.

24 MR. KERN: I'm afraid we're going to
25 continue.

1 Q. Finally, you previously testified that an
2 active participant could maintain monies in both the
3 commingled account and in the segregated account,
4 correct?

5 A. It would be legal to do it, yes.

6 Q. Nothing which would have precluded that,
7 correct?

8 A. There's nothing to preclude that no.

9 MR. KERN: I have nothing further.

10 A. It would be unusual, but there's nothing
11 to preclude it, no.

12 MR. KERN: I have nothing further. Thank
13 you.

14 MR. CHARME: I have one quick question.

15 REDIRECT EXAMINATION BY MR. CHARME:

16 Q. Do you know if, in the case of
17 Diagnostic, anyone maintained both money in a
18 commingled account and in a segregated account?

19 A. No, no one did.

20 RECROSS EXAMINATION BY MR. KERN:

21 Q. Well, how do you know that? If there
22 were monies sitting in the Smith Barney account that
23 hadn't been distributed for whatever reason, and those
24 monies belonged to active participants, then the fact
25 is that there would have been monies maintained in

1 both the commingled account and a segregated account
2 for that individual, right?

3 A. That is correct. But no one
4 intentionally was in both accounts.

5 Q. As far as you know?

6 A. As far as I know, for sure, no one was
7 intentionally in the commingled account and the
8 segregated account because nobody said keep half of my
9 money in the commingled account, put half of my money
10 in a separate account.

11 Q. I understand. That commingled account
12 was maintained at least through 1995 -- at least
13 through 2005, correct?

14 A. Yes, it was a small balance left in the
15 2005.

16 Q. You don't know how much was in the Smith
17 Barney account in 2005, though, do you?

18 A. No. What we had, it was just --

19 Q. Do you know what the name on the Smith
20 Barney account is until this very day?

21 A. No.

22 MR. KERN: I have nothing further.

23 MR. CHARME: I have one quick question.

24 REDIRECT EXAMINATION BY MR. CHARME:

25 Q. Did anyone ever say to you that Dr.

C E R T I F I C A T I O N

1
2
3
4
5 I, NANCY A. MIANI, a Certified Court Reporter
6 and a Notary Public, License No. XI00814, do hereby
7 certify that the foregoing witness, ^ , was duly sworn
8 by me on the date indicated, and that the foregoing is
9 a true and accurate transcription of my stenographic
10 notes.

11 I further certify that I am not employed by
12 nor related to any party to this action.
13
14
15


16 
NANCY A. MIANI, C.S.R.
17 LICENSE NO. XI00814
18
19
20
21
22
23
24
25

EXHIBIT 42

2

DIAGNOSTIC & CLINICAL CARDIOLOGY, P.A.

FOR THE PLAN YEAR ENDING:

12/31/99



American Pension Corporation

1375 PLAINFIELD AVENUE • WATCHUNG, NEW JERSEY 07060
(908) 757-5151 • Facsimile (908) 757-9644

January 13, 2000

Mario A. Criscito, M.D.
11 Chadwick Road
Livingston, NJ 07039

RE: Diagnostic & Clinical Cardiology, P.A. Money Purchase Plan

Dear Dr. Criscito:

I am enclosing the report for the plan year ending December 31, 1999.

Please note I have re-instated the forfeitures to Wisteria Banks and Mary Ann Dimatiron. A portion of their accounts were erroneously forfeited in 1998. Everyone in the plan is 100% vested and their accounts should not have been partially forfeited. In addition, I used \$1,159.15 of the 1999 trust earnings to make up for the earnings not allocated to their accounts in 1998.

Please give me a call if you have any questions.

Regards,

CANALE

BW

8-2007

Dominique Sandra Eck
Pension Consultant

DSE/dml
Enclosure:

DIAGNOSTIC & CLINICAL CARDIOLOGY, P.A. MONEY PURCHASE PLAN

BALANCE SHEET

DECEMBER 31, 1999

ASSETS:

1999 Company Contribution Receivable	\$ 28,996.88
Dean Witter	4,017,942.57
Solomon Smith Barney	798,425.50
North America Venture	<u>50,000.00</u>

TOTAL ASSETS:

\$4,895,364.95

LIABILITIES:

None

TOTAL LIABILITIES:

\$.00

PARTICIPANTS' NET WORTH:

Participant Accounts

\$4,895,364.95

TOTAL NET WORTH:

\$4,895,364.95

AMERICAN PENSION CORPORATION

DIAGNOSTIC & CLINICAL CARDIOLOGY, P.A. MONEY PURCHASE PLAN

RECONCILIATION OF TRUST ASSETS

JANUARY 1, 1999 TO DECEMBER 31, 1999

TOTAL ASSETS - January 1, 1999: \$3,955,218.00

INCOME:

1999 Company Contribution
Net Trust Earnings

\$118,996.88
821,150.07 *

TOTAL INCOME:

940,146.95

TOTAL INCOME & OPENING BALANCE:

\$4,895,364.95

EXPENSES & LOSSES:

None

TOTAL EXPENSES & LOSSES:

.00

TOTAL ASSETS - December 31, 1999:

\$4,895,364.95

* \$819,990.92 allocated to accounts for 1999, and \$1,159.15 used
to allocate 1998 earnings to Banks and Dimitrion.

AMERICAN PENSION CORPORATION

DIAGNOSTIC & CLINICAL CARDIOLOGY, P.A.

1 9 9 9 - 1 9 0 0

F I D E L I T Y B O N D R E Q U I R E M E N T S

The Government requires that a Fidelity Bond be maintained on the Plan Fiduciaries, to insure the Plan against losses as a result of fraud, theft, or the misappropriation of the Trust Funds.

The Bond must be for at least 10% of the total asset value of the Trust Fund, but does not have to exceed a total Face Amount of \$ 500,000.00.

Assuming an increase in the Trust values on the basis of last year's experience, you should assure that a Bond is in place for at least:

\$500,000.00

DIAGNOSTIC & CLINICAL CARDIOLOGY, P.A.

S U M M A R Y O F K E Y F A C T S

PLAN YEAR:	1999
NUMBER OF PARTICIPANTS:	20
TOTAL COMPENSATION:	\$653,922.00
OPENING BALANCE:	\$3,956,377.15
NEW FORFEITURES:	.00
PLAN DISBURSEMENTS:	.00
ADJUSTED BALANCES:	\$3,956,377.15
TRUST EARNINGS:	\$819,990.92
PERCENT EARNINGS:	20.73 %
COMPANY CONTRIBUTION:	\$118,996.88
AS A % OF SALARIES:	18.20 %
CLOSING BALANCES:	\$4,895,364.95
TRUST CORPUS:	\$4,895,364.95

DIAGNOSTIC & CLINICAL CARDIOLOGY, P.A.
YEAR END: 1999

I N T E G R A T I O N D A T A

NUMBER OF PARTICIPANTS:	20
TOTAL COMPENSATION:	\$653,922.00
S.S. LEVEL:	\$72,600.00
SALARIES ABOVE S.S. LEVEL:	4
TOTAL OF EXCESS SALARIES:	\$280,480.00
PERCENT ON EXCESS:	5.70 %
ALLOCATION TO EXCESS SALARIES:	\$15,987.36
PERCENT ON TOTAL:	17.00 %
ALLOCATION TO TOTAL SALARY:	\$103,009.52
TOTAL COMPANY CONTRIBUTION:	\$118,996.88
AS A % OF SALARIES:	18.20 %

CENSUS REPORT
1999

PAGE 1 OF 1

DIAGNOSTIC & CLINICAL CARDIOLOGY, P.A.

<u>SOCIAL SECURITY #</u>	<u>EMPLOYEE NAME</u>	<u>DATE OF BIRTH</u>	<u>DATE OF EMPLOY</u>	<u>ANNUAL COMPENSATION</u>	1999 <u>DATE LEFT</u>
154-44-1890	BROWN, MARK	___/___/___	02/01/95	90,880.00	
141-52-1253	CORTES, MARIA	01/31/56	04/01/92	38,452.00	
144-30-5764	CRISCITO, MARIO	05/22/39	04/01/76	160,000.00	
158-44-8690	HAWTHORNE, KEITH	02/04/54	10/01/91	160,000.00	
076-48-0070	ROBERTS, KIM	05/26/56	03/11/96	G O N E	
046-62-5316	ROELKE, MARC	08/12/61	07/01/94		
	CHAABAN, FADI	___/___/___	___/___/___	160,000.00	
	McALLISTER, CHARESE	___/___/___	___/___/___	33,077.00	
144-30-5764	CRISCITO, MARIO	___/___/___	04/01/76	ROLLOVER \$	
	FOGGIO, ANTOINETTE	___/___/___	03/28/83	ROLLOVER \$	
	HAYES, BARBARA	___/___/___	05/01/79	ROLLOVER \$	
138-62-7005	GONNELLA, RENEE	07/03/70	10/02/91	11,513.00	
	BANKS, WISTERIA	___/___/___	12/01/94	G O N E	07/16/98
	CANALES, MARY ANN	12/28/65	05/03/93	G O N E	04/12/96
145-54-1732	CRUZ, LINDA	05/28/59	07/01/88	G O N E	01/15/98
150-70-7255	DIMITRION, MARIANNE	___/___/___	11/01/94	G O N E	
147-72-9527	DIFAZIO, LISA	06/18/68	02/01/89	G O N E	
	FOGGIO, ANTOINETTE	___/___/___	03/28/83	G O N E	
149-72-4046	FOX (VITALE), DIANNE	09/20/66	07/01/87	G O N E	05/17/96
	HAYES, BARBARA	___/___/___	05/17/79	G O N E	06/13/85

Total Salaries: \$ 653,922.00

DIAGNOSTIC & CLINICAL CARDIOLOGY, P.A.
YEAR END: 1999

I N I T I A L D A T A

LAST NAME -----	FIRST NAME -----	DATE OF EMPLOY -----	STAT -----	1999 ANNUAL SALARY -----	INITIAL OPENING BALANCE -----
BROWN	MARK	02/01/95	ACTV	90,880.00	29,997.39
CORTES	MARIA	04/01/92	ACTV	38,452.00	41,473.79
CRISCITO	MARIO	04/01/76	ACTV	160,000.00	2,870,456.32
HAWTHORNE	KEITH	10/01/91	ACTV	160,000.00	220,054.94
ROBERTS	KIM	03/11/96	TERM	.00	3,847.27
ROELKE	MARC	07/01/94	ACTV	.00	613.12
CHAABAN	FADI	/ /	NEW	160,000.00	.00
McALLISTER	CHARESE	/ /	NEW	33,077.00	.00
CRISCITO	MARIO	04/01/76	ROLL	.00	572,045.08
FOGGIO	ANTOINETTE	03/28/83	ROLL	.00	9,731.36
HAYES	BARBARA	05/01/79	ROLL	.00	6,655.36
GONNELLA	RENEE	10/02/91	P.T.	11,513.00	16,993.98
BANKS	WISTERIA	12/01/94	TERM	.00	4,761.72
CANALES	MARY ANN	05/03/93	TERM	.00	11,674.94
CRUZ	LINDA	07/01/88	TERM	.00	54,582.19
DIMITRION	MARIANNE	11/01/94	TERM	.00	8,853.81
DIFAZIO	LISA	02/01/89	TERM	.00	42,969.75
FOGGIO	ANTOINETTE	03/28/83	TERM	.00	7,027.14
FOX (VITALE)	DIANNE	07/01/87	TERM	.00	28,183.36
HAYES	BARBARA	05/17/79	TERM	.00	26,455.63

TOTALS: 20

\$ 653,922.00 \$3,956,377.15

DIAGNOSTIC & CLINICAL CARDIOLOGY, P.A.
YEAR END: 1999

CONTRIBUTION ALLOCATION

EMPLOYEE NAME -----	1999 ANNUAL SALARY -----	EXCESS SALARY -----	EXCESS CONTRIB -----	CONTRIB BALANCE -----	1999 TOTAL CONTRIB -----
BROWN, M	90,880.00	18,280.00	1,041.96	15,449.60	16,491.56
CORTES, M	38,452.00	.00	.00	6,536.84	6,536.84
CRISCITO, M	160,000.00	87,400.00	4,981.80	25,018.20	30,000.00
HAWTHORNE, K	160,000.00	87,400.00	4,981.80	25,018.20	30,000.00
CHAABAN, F	160,000.00	87,400.00	4,981.80	25,018.20	30,000.00
McALLISTER, C	33,077.00	.00	.00	5,623.09	5,623.09
GONNELLA, R	11,513.00	.00	.00	345.39	345.39

TOTALS:	\$653,922.00	\$280,480.00	\$15,987.36	\$103,009.52	\$118,996.88

48.00

12-7-00
MCA 10/2000
2
CARR
McAllister
CHAABAN
+
GONNELLA
Richardson

4/6

6/7

DIAGNOSTIC & CLINICAL CARDIOLOGY, P.A.
YEAR END: 1999

C O S T C O M P A R I S O N

EMPLOYEE NAME -----	1999 ANNUAL SALARY -----	1999 ANNUAL ADDITION -----	DEPOSIT AS A % OF TOTAL -----	DEPOSIT AS A % OF SALARY -----
BROWN, M	90,880.00	16,491.56	13.86%	18.15%
CORTES, M	38,452.00	6,536.84	5.49%	17.00%
CRISCITO, M	160,000.00	30,000.00	25.21%	18.75%
HAWTHORNE, K	160,000.00	30,000.00	25.21%	18.75%
CHAABAN, F	160,000.00	30,000.00	25.21%	18.75%
McALLISTER, C	33,077.00	5,623.09	4.72%	17.00%
GONNELLA, R	11,513.00	345.39	.29%	3.00%

TOTALS: 7	\$653,922.00	\$118,996.88	100.00%	18.20%

DIAGNOSTIC & CLINICAL CARDIOLOGY, P.A.
YEAR END: 1999

ANNUAL SUMMARY

EMPLOYEE NAME -----	ADJUSTED OPENING BALANCES -----	1999 TRUST EARNINGS -----	1999 COMPANY CONTRIB -----	1999 CLOSING BALANCE -----
BROWN, MARK	29,997.39	6,217.20	16,491.56	52,706.15
CORTES, MARIA	41,473.79	8,595.78	6,536.84	56,606.41 <i>revised 3/5/10</i>
CRISCITO, MARIO	2,870,456.32	594,925.11	30,000.00	3,495,381.43
HAWTHORNE, KEITH	220,054.94	45,608.15	30,000.00	295,663.09
ROBERTS, KIM	3,847.27	797.38	.00	4,644.65
ROELKE, MARC	613.12	127.07	.00	740.19
CHAABAN, FADI	.00	.00	30,000.00	30,000.00
McALLISTER, CHARES	.00	.00	5,623.09	5,623.09
CRISCITO, MARIO	572,045.08	118,560.93	.00	690,606.01
FOGGIO, ANTOINETTE	9,731.36	2,016.90	.00	11,748.26
HAYES, BARBARA	6,655.36	1,379.38	.00	8,034.74
GONNELLA, RENEE	16,993.98	3,522.14	345.39	20,861.51
BANKS, WISTERIA	4,761.72	986.90	.00	5,748.62 <i>BR 3/29/10</i>
CANALES, MARY ANN	11,674.94	2,419.73	.00	14,094.67
CRUZ, LINDA	54,582.19	11,312.60	.00	65,894.79
DIMITRION, MARIANN	8,853.81	1,835.02	.00	10,688.83 <i>2/3</i>
DIFAZIO, LISA	42,969.75	8,905.83	.00	51,875.58
FOGGIO, ANTOINETTE	7,027.14	1,456.43	.00	8,483.57
FOX (VITALE), DIAN	28,183.36	5,841.23	.00	34,024.59 <i>2/3</i>
HAYES, BARBARA	26,455.63	5,483.14	.00	31,938.77

TOTALS:	\$3,956,377.15	\$819,990.92	\$118,996.88	\$4,895,364.95

DIAGNOSTIC & CLINICAL CARDIOLOGY, P.A.
YEAR END: 1999

TOP HEAVY REPORT

NAME OF EMPLOYEE -----	12/31/99 ANNUAL SALARY -----	12/31/99 CLOSING BALANCE -----	ACCOUNT AS A % OF TOTAL -----
HAWTHORNE, K	160,000.00	295,663.09	6.04%
CRISCITO, M	160,000.00	3,495,381.43	71.40%
CHAABAN, F	160,000.00	30,000.00	.61%
BROWN, M	90,880.00	52,706.15	1.08%
ROELKE, M	.00	740.19	.02%
CORTES, M	38,452.00	56,606.41	1.16%
McALLISTER, C	33,077.00	5,623.09	.11%
GONNELLA, R	11,513.00	20,861.51	.43%
DIMITRION, M	.00	10,688.83	.22%
CRISCITO, M	.00	690,606.01	14.11%
CRUZ, L	.00	65,894.79	1.35%
BANKS, W	.00	5,748.62	.12%
ROBERTS, K	.00	4,644.65	.09%
HAYES, B	.00	8,034.74	.16%
FOGGIO, A	.00	11,748.26	.24%
FOGGIO, A	.00	8,483.57	.17%
CANALES, M	.00	14,094.67	.29%
DIFAZIO, L	.00	51,875.58	1.06%
HAYES, B	.00	31,938.77	.65%
FOX (VITALE), D	.00	34,024.59	.70%

TOTALS: 20 \$653,922.00 \$4,895,364.95 100.00%
PARTICIPANTS IN THIS REPORT ARE ORDERED BY SALARY
AND BY KEY EMPLOYEE & HIGHLY COMPENSATED STATUS

DIAGNOSTIC & CLINICAL CARDIOLOGY, P.A.
YEAR END: 1999

S E R V I C E A N D V E S T I N G

<u>NAME OF EMPLOYEE</u> -----	<u>12/31/99 CLOSING BALANCE</u> -----	<u>DATE EMPLOYED</u> -----	<u>PERCENT VESTED</u> -----	<u>12/31/99 VESTED CREDITS</u> -----
CHAABAN, F	30,000.00	/ /	100 %	30,000.00
MCALLISTER, C	5,623.09	/ /	100 %	5,623.09
CRISCITO, M	3,495,381.43	04/01/76	100 %	3,495,381.43
HAWTHORNE, K	295,663.09	10/01/91	100 %	295,663.09
GONNELLA, R	20,861.51	10/02/91	100 %	20,861.51
CORTES, M	56,606.41	04/01/92	100 %	56,606.41
ROELKE, M	740.19	07/01/94	100 %	740.19
BROWN, M	52,706.15	02/01/95	100 %	52,706.15

THIS REPORT IS ORDERED BY D.O.E. (ACTIVE EMPLOYEES ONLY)

12/31/99

PAGE 1 OF 1

DIAGNOSTIC & CLINICAL CARDIOLOGY, P.A.

TERMINATED EMPLOYEES' BENEFITS

<u>SOCIAL SECURITY #</u>	<u>EMPLOYEE NAME</u>	<u>DATE OF BIRTH</u>	<u>DATE OF EMPLOY</u>	<u>DATE LEFT</u>	<u>12/31/99 ACCOUNT BALANCE</u>
	HAYES, BARBARA	___/___/___	05/17/79	06/13/85	31,938.77
	CANALES, MARY ANN	12/28/65	05/03/93	04/12/96	14,094.67
149-72-4046	FOX (VITALE), DIANNE	09/20/66	07/01/87	05/17/96	34,024.59
145-54-1732	CRUZ, LINDA	05/28/59	07/01/88	01/15/98	65,894.79
	BANKS, WISTERIA	___/___/___	12/01/94	07/16/98	5,748.62

					Termination Liabilities: \$ 151,701.44

01/13/00 09:26
01/13/2000 09:24 973-9941906

973 9941906

MARIO CRISCITO, M.D.

PAGE 01

*to Mario's
Report AS AP &
and to Mario
he can to
transfer to
separate
accounts.*

MORGAN STANLEY DEAN WITTER:
SCHWAB TRANSFERRED TO DEAN WITTER
SALOMON SMITH BARNEY
NORTH AMERICAN VENTURE:

\$4,017,942.57

0.00

\$ 798,425.50

\$ 50,000.00

TOTAL:

\$ 4,728,067.57

+ 28,996.88 RCV

INCLUDED IN DEAN WITTER MONIES IS ~~\$93,500.48~~

CONTRIBUTIONS HOWEVER DCC PA STILL OWES PENSION PLAN

~~\$25,696.40~~ FOR THE YEAR 1999.

*98,300.48 OF WHICH 8300.48
WAS PAID FOR 1999
290,000 IS
FOR 1999*

28,996.88

MARIO A. CRISCITO, M.D.
11 CHADWICK ROAD
LIVINGSTON, N.J. 07039

98 RCV

118,996.88

*- 93,500.48
90,000 REP IN 99*

28,996.88 DUE

98

*1-8-79 5000
2-1-79
put in 3,300.48*

*4-99 30000
4-99 15000
4-99 45000 11723*

01/13/00 09:42
01/13/2000 09:48 973-9941986

973 9941986

MARIO CRISCITO, M.D.

PAGE 81

MORGAN STANLEY DEAN WITTER:	\$4,017,942.57
SCHWAB TRANSFERRED TO DEAN WITTER	0.00
SALOMON SMITH BARNEY	\$ 798,425.50
NORTH AMERICAN VENTURE:	\$ 50,000.00
TOTAL:	\$ 4,728,067.59

**INCLUDED IN DEAN WITTER MONIES IS \$98,300.48 OF WHICH
\$8,300.48 IS FOR THE YEAR 1998 CONTRIBUTIONS HOWEVER DCC
PA STILL OWES PENSION PLAN \$28,996.88 FOR THE YEAR 1999.**

**MARIO A. CRISCITO, M.D.
11 CHADWICK ROAD
LIVINGSTON, N.J. 07039**

DIAGNOSTIC & CLINICAL CARDIOLOGY, P.A.
ANNUAL REPORT AND
PARTICIPANT STATEMENT

PLAN YEAR ENDING: 12/31/99

FOR: MARK BROWN

YOUR OPENING ACCOUNT BALANCE
AS OF 01/01/99 WAS: \$ 29,997.39

THE TRUST FUND EARNINGS WERE 20.73 %
YOUR SHARE AMOUNTED TO: 6,217.20

THE COMPANY CONTRIBUTION MADE TO
YOUR ACCOUNT FOR THIS YEAR WAS: 16,491.56

YOUR TOTAL ACCOUNT ON 12/31/99
NOW AMOUNTS TO: \$ 52,706.15

YOUR VESTING ON 12/31/99 WAS 100 %

YOUR VESTED ACCOUNT BALANCE: \$ 52,706.15

YOUR ACCOUNT IS PAYABLE ONLY UNDER THE TERMS OF THE
PLAN AND TRUST DOCUMENT

EXHIBIT 43

IMPORTANT
 EVERYTHING MUST
 BE MAILED DIRECTLY TO
 HIS HOME ADDRESS



Diagnostic & Clinical
 Cardiology, P.A.

"Diagnostic & Clinical Cardiology, P.A."
 Money Purchase Pension Plan

~~100%~~

10th year of the Trust ended:
 April 30, 1986

PAY APT
 PREPARATION OF FORM 706

AMOUNT OF FIDUCIARY
 5500 for Defendant's
 benefit P
 720
 100
 820

Dr. Mario Pucito, MD
 11 Chadwick Rd.
 Livingston, NJ 07039

Administrative of Diagnostic & Clinical Cardiology, P.A.
 Pension Plan, Year Ending March 31, 1986

720
 100
 820

KEEP ON

TOP

5-20-94

except for Dr Casella's
individual report, EVERYTHING
goes to Dr Criscito's
House. Nothing goes
direct to anyone else, even
accountants. All info goes
through Dr Criscito! EXCEPT BARBARA
DR CASSELLA
& DR GOLDSTEIN
PER CRISCITO DO NOT SPEAK TO ANYONE REGARDING
THIS MATTER TO THE DEPARTMENT OF JUSTICE

HE IS IT. NO ONE

FALSE. NOT EVEN

DR. CASTILLA.

9-10-03

PER MARIO CRISCITO
RE DIAGNOSTIC & CLINICAL
CARDIOLOGY

MAIL EVERYTHING

TO DR MARIO ^{CRISCITO} AT HIS

HOME, NOT TO CASSELLA

MARIO ~~SAID~~ NOT TO, BUT, ALSO
SEND MARIO A COPY LABELED
COPY FOR DR CASSELLA

25021

DR CRISCITO SAID IF
ANYTHING GOES TO
OFFICE OR CASSELLA
HE WILL PERSONALLY COME
DOWN HERE & BEAT
ME! [HE HAS BEEN SAYING
THIS FOREVER]

10-10-05

1379

Dr Criscito

from
12-31-04
bill

Dr Criscito

reported 41,000 in 2004

assets as of 12-31-04

= 122,000

LESS

+ HAN

YEAR BEFORE

as of 12-31-03.

(no loss

was 163,000)

Dr Criscito
2004

American Pension Corporation

1375 Plainfield Avenue
Watchung, New Jersey 07069
(908) 757-5151 • Facsimile (908) 757-9644

TO: ALL STAFF

DATE: 8-11-06

FROM BRIAN & DOMINIQUE

RE: DIAGNOSTIC &

CLINICAL RADIOLOGY

URGENT

NEW RULES

ANY REPORT THAT INCLUDES
THE VALUE OF DR MARIO CRISCITO'S
ACCOUNT OR DISTRIBUTIONS FROM HIS
ACCOUNT ARE TO GO ONLY TO
MARIO AT HIS HOME (32 CHURCH DRIVE)

THIS INCLUDES 2005 & 2006
5500 FORMS & SUMMARY ANNUAL REPORTS,
2006 1099RS, & ANY REPORT
SHOWING TOTAL VALUE OF PLAN
ASSETS

MARK BROWN CAN ONLY GET
THINGS LIKE PLAN DOCUMENT. CONTRIBUTION
CALCULATIONS CAN GO TO MARK BROWN
ONLY IF THE CENSUS CAME FROM MARK BROWN.
CLAIMS IN OTHER DOCTORS CAN GO TO MARK BROWN.

CHECK WITH BRIAN AND DOMINIQUE BOTH
BEFORE MAILING OR FAXING ANYTHING ON
DIAGNOSTIC & CLINICAL.

26055

IF UNSURE, CALL MARIO. ANY COMPLAINTS,
REFER COMPLAINER TO MARIO. BRIAN

1-12-2006

76-0410624

NEW TRUST ID#
FOR DIAGNOSTIC
& CLINICAL
CARDIOLOGY

DON'T FORGET
EVERYTHING GOES
TO MARIO CRISCITO'S
HOUSE

72 Chelsea Street
Boston MA 02139-3920

(I changed it
on spreadsheet
on Hyperpro
8/27/05)

EXHIBIT 44

COPY

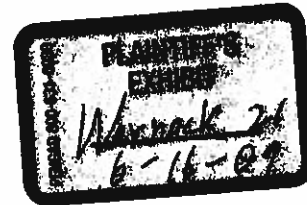
American Pension Corporation

1375 PLAINFIELD AVENUE • WATCHUNG, NEW JERSEY 07069
(908) 757-5151 • Facsimile (908) 757-9644

December 6, 2007

Joy M. Mercer, Esq.
Joy M. Mercer, P.C.
30 Columbia Turnpike
Florham Park, New Jersey 07932

Re: Diagnostic & Clinical Cardiology, P.A.
Profit Sharing Plan



Dear Ms. Mercer:

In response to your correspondence dated November 27, 2007, enclosed is the information requested in Item 5 of your letter. As we previously advised Dr. Casella, we were unable to retrieve from storage copies of the Annual Reports from 1996 and 1997, and believe those files were destroyed. However, we were able to retrieve a copy of the 1995 Annual Report.

I compared the December 31, 1995 account balance for each participant in the commingled account to the opening balance on the 1998 report. The numbers all track, using estimated contributions and a total two year return on investments for 1996 and 1997 of 8.5%. There were no distributions in 1996 or 1997.

Accordingly, enclosed is a copy of the 1995 commingled account annual summary listing the value of the participants' accounts as of December 31, 1995. In addition, I am enclosing copies of the annual summaries from 1998 through December 31, 2005. There were no commingled accounts after December 31, 2005, when Dr. Criscito took his lump sum distribution, other than A. Foggio's account. Please see the footnote on the 2005 Annual Summary regarding Foggio's account balance.

Also enclosed is a list of the transfers and payouts from the commingled account in 2000. The values were based on the account balances as of December 31, 1999. The 1999 report was completed on January 13, 2000, and the transfers were made soon thereafter as the paperwork for opening the separate accounts was processed by Morgan Stanley. The December 31, 1999 value of the commingled accounts was based on information provided by Mario Criscito.

I have made notes on the reports to advise you of the miscellaneous adjustments made on the reports.

In preparing the Annual Reports, we relied on the employee census data provided by Dr. Casella, and the financial information provided by Dr. Criscito on the commingled accounts. Accumulating the data on all the separate accounts has proven to be a difficult challenge. While

American Pension Corporation

- 2 -

the Morgan Stanley statements on the separate accounts are provided by Morgan Stanley, for any accounts held outside of Morgan Stanley we have had to rely on the doctors to provide their account balances, often at the "eleventh hour." The information on the commingled accounts or some of the separate accounts was often provided at the last minute, resulting in rushed reports.

The bottom line is, the reports were completed accurately, based on the data provided. As indicated on the enclosed reports, occasional minor adjustments were required and were made.

As I am sure you have been made aware, the major question seems to apply to the commingled accounts. The annual value of the commingled accounts was provided by Dr. Criscito, with no backup statements. Most years it was provided in writing, but occasionally it was provided verbally. We had no reason to believe that Dr. Criscito was providing us with incorrect information.

When Dr. Casella came to our office this summer, he spent a great deal of time going through every file. He indicated that he did not fully trust Dr. Criscito, and suspected that he had been manipulating information on the commingled accounts for his own benefit. I commented to Dr. Casella that while Dr. Criscito was certainly protective of his privacy, and had a very forceful personality, I would find it surprising that an extremely successful, and very wealthy, cardiovascular surgeon like Dr. Criscito would provide misinformation to inflate his own benefit at the expense of the other participants. Dr. Casella, on the other hand, was not of that mindset, and apparently for some time.

In the beginning of 2000, when separate accounts were set up for all the employees, Morgan Stanley apparently started sending us copies of the monthly statements on the newly established separate accounts. Up until that time, we were not receiving monthly statements on the commingled account. Instead, Dr. Criscito would provide the end of year values each year (note, the commingled account previously was not all at Morgan Stanley). But it turns out that monthly statements on the commingled account also started to be mailed at the time the separate accounts started (I assume that was an error, because they later stopped). All statements were filed as they came in by a filing clerk, and we did not realize they were being mailed to us (the file is very thick, and contains all of the other participants' Morgan Stanley statements, so the commingled account statements did not stand out). And, Dr. Criscito had called us with the total value for the commingled accounts for that year, as before, which is the value we used.

When Dr. Casella carefully reviewed every file, however, he came across the Morgan Stanley statements from 2000 for the commingled accounts. They do not agree with the numbers personally provided to us by Dr. Criscito for that year.

American Pension Corporation

- 3 -

Obviously, at some point in time, Dr. Criscito will need to explain the discrepancies to the new Trustees. We at American Pension Corporation are not at all happy that we appear to have been receiving incorrect information from Dr. Criscito, and would also like to find out what exactly happened so we can determine if any of the participants in the commingled account have been short-changed. I do not want to speculate on whether it is a case of poor bookkeeping by Dr. Criscito, or a deliberate attempt on Dr. Criscito's part to enrich himself, or if there is some reasonable explanation that we are not aware of. Either way, the responsibility to provide American Pension Corporation with accurate information clearly belonged to the Practice and the Plan Trustee, Dr. Criscito. We are not auditors, and we trust our clients to provide us with accurate information.

I do not recall either Dominique Eck (who primarily worked on the plan) or myself ever actually meeting Dr. Criscito in person. Our relationship was professional, but always cordial. Dr. Criscito always emphasized that he was the "boss," and that everything was to be sent directly to him at his home. In our business, this is not a totally uncommon behavior by small business owners, who do not want financial information floating around the office. He also indicated that any requests should be referred to him, and he would handle them. We respected his wishes, as we had no reason to believe his motives were anything other than protecting his privacy.

Please let me know if we can be of further assistance to you. We share the desire of the new Trustees to be sure the accounts have been correctly valued, and will do whatever we can to assist them in the process.

Sincerely,

Brian P. Warnock
Vice-President

BPW/sjl
Enclosures

cc: Mr. Mark Brown
Anthony Casella, M.D.
Fadi Chaaban, M.D. (Plan Trustee)
Constantinos A. Costeas, M.D. (Plan Trustee)
Mr. Peter V. S. Coughlan, President
Charles S. Detrizio, Esq.
Ms. Dominique Eck, Pension Consultant
Gary Rogal, M.D., President
Sabino R. Torre, M.D. (Plan Trustee)

25187

EXHIBIT 45

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEW JERSEY
3 CASE NO. 2:08-CV-1567 (JAG-MCA)

4 DR. FADI CHAABAN, DR. SABINO R. :
5 TORRE, DR. CONSTANTINOS A. :
6 COSTEAS, and DR. ANTHONY J. :
7 CASELLA AS TRUSTEES OF DIAGNOSTIC :
8 & CLINICAL CARDIOLOGY, P.A. :
9 PROFIT SHARING PLAN, :
10 Plaintiffs, :

11 -V- :
12 DR. MARIO A. CRISCITO, :
13 Defendant. :

14 - - - - -

15
16 DEPOSITION OF MARK BROWN
17 WEDNESDAY, JUNE 17, 2009
18

19
20 ROSENBERG & ASSOCIATES, INC.
21 Certified Court Reporters & Videographers
22 425 Eagle Rock Ave., Suite 201 575 Madison Ave.
23 Roseland, NJ 07068 New York, NY 10022
24 (973) 228-9100 1-800-662-6878 (212) 868-1936
25 www.rosenbergandassociates.com

1 A P P E A R A N C E S:

2

3 WITMAN STADTMAUER, P.A.

4 BY: STEPHEN M. CHARME, ESQ.

5 26 Columbia Turnpike

6 Florham Park, New Jersey 07932-2246

7 (973) 822-0220

8 scharme@wsmesq.com

9 Attorneys for Plaintiffs

10

11 KERN AUGUSTINE CONROY & SCHOPPMANN, P.C.

12 BY: STEVEN I. KERN, ESQ.

13 1120 Route 22 East

14 Bridgewater, New Jersey 08807

15 (908) 704-8585

16 kacs@drlaw.com

17 Attorneys for Defendant

18

19

20

21

22

23

24

25

1 (Discussion off the record.)

2 Q. Who was the employee?

3 A. I don't recall.

4 Q. This is someone who terminated
5 employment and wanted the money rolled over?

6 A. Right. Morgan Stanley sent us the
7 check to pay the tax. That was my only
8 involvement. I brought the 945 form and the
9 check to the bank and deposited it.

10 Q. And there was tax to be paid why?

11 A. I think it's a penalty if you
12 withdraw early.

13 Q. Okay.

14 A. So that was my involvement.

15 Q. So this wasn't a rollover, it was a
16 withdrawal?

17 A. Right, correct, withdrawal.

18 Q. Were there any irregularities as
19 far as you know with this transaction?

20 A. Not to my knowledge.

21 And the only other time I had
22 contact with them prior to, with American
23 Pension prior to was I tried getting a copy of
24 the actual plan document or where the money, my
25 particular, my money was being allocated, this

1 was sometime in 1999 I did that, and I was told
2 that they couldn't release that information to
3 me.

4 Q. Did they tell you why?

5 A. They told me that only Dr. Criscito
6 is allowed to have that information, and they
7 weren't allowed to send it to anybody.

8 Q. Did you ask Dr. Criscito for it?

9 A. Yes.

10 Q. And what did he say?

11 A. He told me that it was -- "Don't
12 ask Mario. You're fine. Uncle Mario is taking
13 care of you."

14 And I stated to him I'm sitting
15 down with my financial advisors and I really
16 need to know what's in the account, I don't have
17 any idea what's in the account, what it's
18 invested in, and he got very irate with me and
19 started yelling at me, took my hand and was
20 about to write it out on my hand, and then I
21 pulled my hand back, and he wrote a number out
22 on a napkin, and I left.

23 Q. What was the number?

24 A. I don't recall.

25 Q. Was it a good number or a bad

1 Q. Before this letter in 2000, were
2 you aware of the fact that your monies were part
3 of an account at Morgan Stanley?

4 A. Yeah. I knew there was one big
5 account.

6 Q. Did you ever make a request of
7 Morgan Stanley for information concerning the
8 account?

9 A. I believe I did. That was the same
10 year.

11 Q. Who did you talk to at Morgan
12 Stanley?

13 A. Mary Sue McCarthy.

14 Q. And what were you told?

15 A. That it would have to come from Dr.
16 Criscito.

17 Q. Did you make that request in
18 writing or verbally?

19 A. That would be verbally. Both.
20 Both to American Pension, to Mario, and to all
21 three.

22 Q. Were monies ultimately segregated
23 into a personal account for you?

24 A. Yes.

25 Q. Did you ever question the amount of

C E R T I F I C A T E

I, JEAN C. KIBALO, a Certified Court Reporter and Notary Public of the State of New Jersey, do hereby certify that prior to the commencement of the examination, the witness was duly sworn by me to testify the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth, to the best of my ability.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to the action; and that I am neither a relative nor employee of such attorney or counsel; and that I am not financially interested in the action.



Jean C. Kibalo

JEAN C. KIBALO, CCR

LICENSE NO. XI01968

EXHIBIT 46



D. C. C. P A

Pension Fund

JAN - Dec 31, 1997

Deane W. Hae:	1,553,424.37
Schwab	1,186,447.00
Salomon Smith Barney	624,441.33
North America Venture	50,000.00
Depos. Tab	136,000.00
	<u>3,550,367.70</u>

From Dr. Mario A. Criscito

To Brian

908.757.9644

9/14/98

DCC,P.A. PENSION FUND
December 31, 1999 ²⁰⁰⁰

	\$4,895,364.95
	- \$720,979.46
	<hr/>
OPENING BAL. FOR YEAR 2000	\$ 4,174,385.49
DEPOSIT FOR Mario A. Criscito	\$30,000.00
NORTH AMERICA VENTURE	\$50,000.00
SOLOMON SMITH BARNEY	\$1,185,438.00
DEAN WITTER	\$5,655,250.00
TOTAL FOR 2000	\$6,920,688.00

DCC,P.A. PENSION FUND
December 31, 2001

OPENING BAL. FOR YEAR 2000	\$ 6,920,688.00
DEPOSIT FOR Mario A. Criscito	\$30,000.00
NORTH AMERICA VENTURE	\$50,000.00
SOLOMON SMITH BARNEY	\$ 725,846.00
DEAN WITTER	\$4,176,345.00
TOTAL FOR 2001	<hr/> \$4,982,191.00

34,007.20

25957

DCC,P.A. PENSION FUND
December 31,2002

OPENING BAL. FOR YEAR 2002	\$ 4,982,191.00
DEPOSIT FOR Mario A. Criscito	\$40,000.00
NORTH AMERICA VENTURE	\$50,000.00
SOLOMON SMITH BARNEY	\$ 739,125.00
DEAN WITTER	\$4,222,065.00

TOTAL FOR 2002	\$5,051,190.00

25997

EXHIBIT 47

*to Mario's
Report ASAP &
send to Mario
so he can
transfer to
separate
account*

DCC PA PENSION FUND

MORGAN STANLEY DEAN WITTER:
SCHWAB TRANSFERRED TO DEAN WITTER
SALOMON SMITH BARNEY
NORTH AMERICAN VENTURE:

\$4,017,942.57

0.00

\$ 798,425.50

\$ 50,000.00

TOTAL:

\$ 4,728,067.59

+ 28,996.88 RCV

INCLUDED IN DEAN WITTER MONIES IS ~~\$93,300.48~~
CONTRIBUTIONS HOWEVER DCC PA STILL OWES PENSION PLAN
\$25,696.40 FOR THE YEAR 1999.

*98,300.48 OF WHICH 8300.48
WAS 12% OF 1998
290,000 IS
FOR 19*

28,996.88

*for
MARIO*

MARIO A. CRISCITO, M.D.
11 CHADWICK ROAD
LIVINGSTON, N.J. 07039

98 RCV

118,996.88

*- 93,300.48
90,000 DEP 1-1-99*

28,996.88 DUE

98

1-8-79 5000

1500

put in 3,300.48

1-99 30000

4-99 15000

6-99 45000

01/13/00 09:26
01/13/2000 09:24 973-9941986

973 9941986

MARIO CRISCITO, M.D.

PAGE 81

*to Mario's
Report AS AP 9
and to Mario
he can
transfer to
separate
accounts.*

MORGAN STANLEY DEAN WITTER:	\$4,017,942.57
SCHWAB TRANSFERRED TO DEAN WITTER	0.00
SALOMON SMITH BARNEY	\$ 798,425.50
NORTH AMERICAN VENTURE:	\$ 50,000.00
TOTAL:	\$ 4,728,067.59

+ 28,996.88 RCV

INCLUDED IN DEAN WITTER MONIES IS ~~\$93,300.48~~
CONTRIBUTIONS HOWEVER DCC PA STILL OWES PENSION PLAN
~~\$25,696.40~~ FOR THE YEAR 1999.

*98,300.48 OF WHICH 8300.48
WAS FOR 1999
290,000 IS
FOR 1999*

28,996.88

MARIO A. CRISCITO, M.D.
11 CHADWICK ROAD
LIVINGSTON, N.J. 07039

98 RCV

118,996.88

- 90,000 REP IN 99

28,996.88 DUE

98

*1-8-79 5800
2-1-79
put in 3,300.48*

*4-99 30000
4-99 15000
4-99 45000 11723*

EXHIBIT 48

RGAN STA.

Financial Advisor
RT A MENDEL
VICE PRESIDENT - INV
AN STANLEY DEAN WIT
ONCOURSE PARKWAY
TA, GA 30328
98-2100
count Of.
A CRISCITO TTEE

Summary

Market Funds
ipal Bonds
rate Fixed Income
nment Securities
Funds
vestment Trusts
cates of Deposit
lies/Insurance

Value

Asset Value

Summary

Market Funds
ipal Bonds
rate Fixed Income
nment Securities
Funds
vestment Trusts
cates of Deposit

Income

Income
empt Income



Memo From

BRIAN WARNOCK

9-14-07



LOOK WHAT
DR CASSELLA
FOUND IN THE
2001 FILE.
How could
WE MISS
THIS?
BIG - PROBLEM

Changes in Asset Value for 2000	
Value of Priced Assets 1/01/00	612,919,403.12
Securities Bought	9,341,879.70
Securities Received	0.00
Securities Sold/Redeemed	-13,739,447.80
Securities Delivered	0.00
Transactions at Fund Company	0.00
Change in Value of Priced Assets	-2,965,354.22
Value of Priced Assets 12/31/00	1,456,280.80
Net Change in Asset Value	-11,463,122.32
Total Asset Value as of December 31 2000	88,992,297.41

\$441,167.37
\$92.00
0.00
1,345.22
5,075.00
0.00
0.00
0.00
0.00
\$446,979.49
\$446,979.49
00.00

25040

DIAGNOSTIC & CLINICAL CARDIOLOGY, P.A.

FOR THE PLAN YEAR ENDING:

12/31/01

THESE ARE
COMINGLED ACCOUNT
STATEMENTS RCD
FOR 2001 - APC WAS
NOT AWARE OF THEM (WE WERE
USING #S PROVIDED BY
MARIO CRISOSTO). STATEMENTS
WERE FOUND BY DR COSGROVE
WHEN HE REVIEWED ALL
FILES IN SUMMER OF 2007.
#S DO NOT TIE INTO DR CRISOSTO'S
#S THAT HE GAVE US

DIAGN01.MP

2007

THESE ARE STATEMENTS
THAT PR CASELLA LOCATED IN
FILE (APL WAS UNAWARE OF THEM -
USED INFO PROVIDED BY PR OR DISCLOSURE)

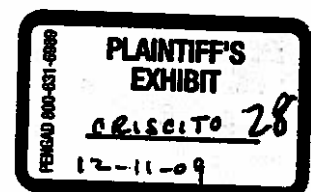
THAT DO NOT TIE INTO
MARIO'S AS USED TO
SEPARATE ACCOUNTS AS OF
12-31-99 VALUATION

EXHIBIT 49

DCC,P.A. PENSION FUND

December 31, 1999 *2000*

	\$4,895,364.95
	- \$720,979.46
	<hr/>
OPENING BAL. FOR YEAR 2000	\$ 4,174,385.49
DEPOSIT FOR Mario A. Criscito	\$30,000.00
NORTH AMERICA VENTURE	\$50,000.00
SOLOMON SMITH BARNEY	\$1,185,438.00
DEAN WITTER	\$5,655,250.00
	<hr/>
TOTAL FOR 2000	\$6,920,688.00



MORGAN STANLEY DEAN WITTER**ACTIVE ASSETS ACCOUNT***
FOR YEAR ENDING DECEMBER 31, 2000

Your Financial Advisor
HERBERT A MENDEL
SENIOR VICE PRESIDENT - INVESTMENTS
MORGAN STANLEY DEAN WITTER
FIVE CONOURSE PARKWAY STE 2000
ATLANTA, GA 30328
(770) 688-2100
For Account Of:
MARIO A CRISCITO TTEE

DUPLICATE

PAGE 1 OF 10

Account Number FA
769 086347 070
AAA Customer Service
1-800-888-3328

AMERICAN PENSION CORP
ATTN: DOMINIQUE ECK
DIAG-CLIN-CARD PRIMARY ACCOUNT
1375 PLAINFIELD AVE
WATCHUNG NJ 07060

001309

769

Asset Summary

	Value	% of Assets
Money Market Funds	97,536,016.61	83.82
Stocks	1,406,218.38	15.6
Municipal Bonds	0.00	0.0
Corporate Fixed Income	0.00	0.0
Government Securities	50,962.58	0.6
Mutual Funds	0.00	0.0
Unit Investment Trusts	0.00	0.0
Certificates of Deposit	0.00	0.0
Annuities/Insurance	0.00	0.0
Other	0.00	0.0
Asset Value	98,992,297.41	100.02
Cash	0.00	
Total Asset Value	98,992,297.41	

Income Summary

	Year To Date
Money Market Funds	6441,167.27
Stocks	592.00
Municipal Bonds	0.00
Corporate Fixed Income	1,345.22
Government Securities	3,875.00
Mutual Funds	0.00
Unit Investment Trusts	0.00
Certificates of Deposit	0.00
Other	0.00
Total Income	6446,979.49
Taxable Income	6446,979.49
Tax Exempt Income	0.00

Activity Summary

Total Asset Value January 01, 2000 612,952,936.43
Cash/Money Market Activity for 2000

Credits To Your Account	444,979.49
Dividend and Interest	111,976.49
Deposits	13,739,647.80
Sales Proceeds/Redemptions	639.02
Other Credits	14,299,292.80
Total Credits	
Debits To Your Account	0.00
Checking	0.00
Debit Card	0.00
Withdrawals	-2,454,804.80
Funds to Purchase Securities	-4,341,879.70
Other Debits	-48.00
Total Debits	-6,796,889.50

Changes in Asset Value for 2000	
Value of Priced Assets 1/01/00	612,919,403.12
Securities Bought	4,341,879.70
Securities Received	0.00
Securities Sold/Redeemed	-13,739,647.80
Securities Delivered	0.00
Transactions at Fund Company	0.00
Change in Value of Priced Assets	-2,068,350.22
Value of Priced Assets 12/31/00	1,456,280.80

Net Change in Asset Value

-11,463,122.32

Total Asset Value as of December 31, 2000 98,992,297.41

MORGAN STANLEY DEAN WITTER

ACTIVE ASSETS ACCOUNT®

FOR YEAR ENDING DECEMBER 31, 2000

PAGE 2 OF 10

AMERICAN PENSION CORP
ATTN: DOMINIQUE ECK

DUPLICATE

Account Number FA
769 086347 070

ASSET DETAILS

Cash and Money Market Funds			Annualized 30 Day Yields		
	Amount	Pct of Assets	Est Yrly Income		
CASH					
AAA PREMIER MONEY TRUST	7,556,016.61	85.8%	477,029	AAA Premier Money Trust	6.33%
				AAA Institutional Money Trust	6.47%
Total Cash and Money Market Funds	7,556,016.61	85.8%	477,029		
Net Change Since January 1, 2000					
	67,892,493.39				

Stocks			Additional Information		
	Current Price	Value	Pct of Assets	Est Yrly Income	Dividend Yield
Common Stocks					
1,800 AMERICA ONLINE INC	34.80	62,640.00	0.7%	0	0.00%
300 NYCAL CP	.01100	3.30	N/A	0	0.00%
10,000 QUALCOMM INC	82.18750	821,875.00	9.1%	0	0.00%
18,800 SANDISK CORP	27.75000	521,700.00	5.8%	0	0.00%
Total Stocks		1,406,218.30	15.6%	0	0.00%
Net Change Since January 1, 2000					
		1,455,577.33			

Government Securities			Additional Information		
	Current Price	Value	Pct of Assets	Est Yrly Income	Accruing Interest
Treasury Securities					
50,000 UNITED STATES TREASURY NOTE	100.12500	50,062.50	0.6%	3,875	7.74%
7.750% FEB/AUG 15 DUE 02/15/01					1,453
					YIELD TO MATURITY 5.9580%
					MOODY AAA S&P AAA
					ISSUE 02/15/91 CUSIP 9128272X3
Total Government Securities		50,062.50	0.6%	45,875	81,953
Net Change Since January 1, 2000					
		750,398			

Asset Summary		Est Yrly Income
Total Asset Value	15,193,547.51	446,944
Total Net Change in Priced Assets Since January 1, 2000		
	11,403,122.32	

25874

MORGAN STANLEY DEAN WITTER

ACTIVE ASSETS ACCOUNT*

FOR YEAR ENDING DECEMBER 31, 2000

PAGE 3 OF 10

AMERICAN PENSION CORP
ATTN: DOMINIQUE ECK

DUPLICATE

Account Number FA
769 086347 070

CREDITS TO YOUR ACCOUNT

Dividends and Interest

Activity	Description	Amount	Income Category
Dividend	AAA PREMIER MONEY TRUST	290,331.95	Money Market Funds
Dividend	MSOM LIQUID ASSET FUND	150,835.32	Money Market Funds
	Total Money Market Funds	441,167.27	
Dividend	LUCENT TECHNOLOGIES	592.00	Stocks
Taxable Interest	DIVIDEND ADJUSTMENT MUTUAL FD	1,345.22	Corporate Fixed Income
Taxable Interest	US TSV NOTE 775 01FBL5	3,875.00	Government Securities
	Total Dividends and Interest	446,979.49	

Deposits

Date	Activity	Description	Amount	Additional Information
01-21	Branch Deposit	FUNDS RECEIVED	35,830.46	
01-21	Branch Deposit	FUNDS RECEIVED	1,102.92	
04-16	Branch Deposit	FUNDS RECEIVED	45,042.91	
05-23	Branch Deposit	FUNDS RECEIVED	18,000.00	
07-25	Branch Deposit	FUNDS RECEIVED	15,000.00	
		Total Deposits	111,976.29	

Sales Proceeds/Redemptions

Date	Activity	Quantity	Description	Price	Amount	Additional Information
03-09	Sold	29,600	LUCENT TECHNOLOGIES	71.7500	2,122,246.05	
01-05	Sold	2,125	VERITAS SOFTWARE DE	139.5000	296,321.40	
01-05	Sold	5,000	VERITAS SOFTWARE DE	139.7500	698,476.75	
01-05	Sold	5,000	VERITAS SOFTWARE DE	140.1250	700,351.67	
01-05	Sold	5,000	VERITAS SOFTWARE DE	140.3750	701,601.63	
01-05	Sold	7,000	VERITAS SOFTWARE DE	139.2500	974,750.00	
01-05	Sold	16,000	VERITAS SOFTWARE DE	140.0625	2,241,000.00	
01-05	Sold	21,000	VERITAS SOFTWARE DE	140	2,940,000.00	
01-12	Sold	8,000	VERITAS SOFTWARE DE	139.6250	1,117,000.00	
				110.3750	882,560.20	

MORGAN STANLEY DEAN WITTER

ACTIVE ASSETS ACCOUNT®

FOR YEAR ENDING DECEMBER 31, 2000

PAGE 4 OF 10

AMERICAN PENSION CORP
ATTN: DOMINIQUE ECK

DUPLICATE

Account Number FA
769 086347 070

Sales Proceeds/Redemptions

Date	Activity	Quantity	Description	Price	Amount	Additional Information
01-12	Sold	12,000	VERITAS SOFTWARE DE	113.5000	1,352,754.21	
			Total Sales Proceeds/Redemptions		1,352,754.21	

Other Credits

Date	Activity	Description	Amount	Additional Information
03-22	Journal In	LOCKBOX	689.02	AS OF 03-20-00
		Total Other Credits	689.02	
		Total Credits To Your Account	689.02	

DEBITS TO YOUR ACCOUNT

Withdrawal

Date	Activity	Description	Amount	Additional Information
01-05	Transfer	FUNDS TRANSFERRED	950,000.00	PER LETTER OF AUTHORIZATION TO 769-078250-1
01-05	Transfer	FUNDS TRANSFERRED	150,000.00	PER LETTER OF AUTHORIZATION TO 769-200624-1
01-25	Check	FUNDS PAID	51,875.58	PAID TO CHASE MANHATTAN BANK BY FIDELITY
01-25	Check	FUNDS PAID	749.19	PAID TO MARK ROELKE MD
01-25	Transfer	TRANSFER OF FUNDS	20,861.51	ROLLOVER TO 769-015116-0 CNA
01-25	Transfer	FUNDS TRANSFERRED	52,706.15	PER LETTER OF AUTHORIZATION TO 769-015122-0
01-25	Transfer	FUNDS TRANSFERRED	30,000.00	PER LETTER OF AUTHORIZATION CNA
01-25	Transfer	FUNDS TRANSFERRED	295,665.09	TO 769-015124-0
01-26	Transfer	TRANSFER OF FUNDS	65,894.79	PER LETTER OF AUTHORIZATION TO 769-015125-0
02-02	Transfer	FUNDS TRANSFERRED	5,623.09	ROLLOVER TO 769-015157-0 CNA
02-03	Transfer	TRANSFER OF FUNDS	34,024.59	PER LETTER OF AUTHORIZATION TO 769-015381-0
02-03	Transfer	TRANSFER OF FUNDS	10,608.83	ROLLOVER TO 769-015423-0 CNA
02-10	Transfer	TRANSFER OF FUNDS	39,973.51	ROLLOVER TO 769-015565-0 WATV
02-16	Transfer	FUNDS TRANSFERRED	4,833.78	PER LETTER OF AUTHORIZATION TO 769-015718-0
02-24	Transfer	TRANSFER OF FUNDS	4,644.65	ROLLOVER TO 769-015941-0 CNA

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MORGAN STANLEY DEAN WITTER

ACTIVE ASSETS ACCOUNT® FOR YEAR ENDING DECEMBER 31, 2000

AMERICAN PENSION CORP
ATTN: DOMINIQUE ECK

DUPLICATE

PAGE 5 OF 10

Account Number FA
769 086347 070

Withdrawal

Date	Activity	Description	Amount	Additional Information
03-09	Transfer	FUNDS TRANSFERRED	56,696.41	PER LETTER OF AUTHORIZATION - CANTO
03-29	Check	FUNDS PAID	4,598.90	TO 769-016368-0
03-29	Check	FUNDS PAID	1,149.73	PAID TO WISTERIA BANKS
05-01	Transferred	MIXED FUNDS SENT	75,000.00	PAID TO INDEPENDENCE BANK
09-25	Transferred	MIXED FUNDS SENT	350,000.00	BENE: EVELYN LANGLIES GREER
11-06	Transferred	MIXED FUNDS SENT	250,000.00	ACCT: 6001205697
				BENE: MARIO A CRISCITO
				ACCT: 570034504
				BENE: POSTX CORP
				ACCT: 1000020403
		Total Withdrawals	2,454,896.00	

Funds to Purchase Securities

Date	Activity	Quantity	Description	Price	Amount	Additional Information
01-07	Bought	10,000	QUALCOMM INC	162.4375	1,624,877.35	
01-07	Bought	1,000	VERITAS SOFTWARE DE	137	137,050.00	
01-07	Bought	2,000	VERITAS SOFTWARE DE	137.2500	274,500.00	
01-07	Bought	3,000	VERITAS SOFTWARE DE	137.5000	412,500.00	
01-07	Bought	4,000	VERITAS SOFTWARE DE	134.0625	536,452.35	
01-07	Bought	4,000	VERITAS SOFTWARE DE	137.7500	551,200.00	
01-07	Bought	6,000	VERITAS SOFTWARE DE	134.1250	805,050.00	
			Total Funds to Purchase Securities		5,341,879.70	

Other Debits

Date	Activity	Description	Amount	Additional Information
05-01	Charge	MIXED FUNDS FEE	-15.00	
09-25	Charge	MIXED FUNDS FEE	-15.00	
11-06	Charge	MIXED FUNDS FEE	-15.00	
		Total Other Debits	-45.00	
		Total Debits To Your Account	-6,796,899.50	

MORGAN STANLEY DEAN WITTER**ACTIVE ASSETS ACCOUNT®**
FOR YEAR ENDING DECEMBER 31, 2000

PAGE 6 OF 10

AMERICAN PENSION CORP
ATTN: DOMINIQUE ECK

DUPLICATE

Account Number FA
769 086347 070**ADDITIONAL ACCOUNT INFORMATION****Securities Received**

Date	Activity	Quantity	Description	Price	Amount	Additional Information
09-25	Received	350,000	AAA PREMIER MONEY TRUST			
09-26	Received	15	AAA PREMIER MONEY TRUST			
11-06	Received	250,000	AAA PREMIER MONEY TRUST			
11-07	Received	15	AAA PREMIER MONEY TRUST			
02-22	Stock Dividend	9,400	SANDISK CORP			

Total Securities Received 0.00**Securities Delivered**

Date	Activity	Quantity	Description	Price	Amount	Additional Information
06-01	Delivered	7,821,100	AAA PREMIER MONEY TRUST			
06-05	Delivered	6,331	AAA PREMIER MONEY TRUST			
06-27	Delivered	1,545	AAA PREMIER MONEY TRUST			
06-29	Delivered	39,634	AAA PREMIER MONEY TRUST			
07-27	Delivered	15,000	AAA PREMIER MONEY TRUST			
07-28	Delivered	42,741	AAA PREMIER MONEY TRUST			
08-16	Delivered	1,937	AAA PREMIER MONEY TRUST			
08-30	Delivered	43,018	AAA PREMIER MONEY TRUST			
09-28	Delivered	40,041	AAA PREMIER MONEY TRUST			
10-30	Delivered	42,714	AAA PREMIER MONEY TRUST			
11-29	Delivered	39,266	AAA PREMIER MONEY TRUST			
12-29	Delivered	42,914	AAA PREMIER MONEY TRUST			

Total Securities Delivered 0.00**Morgan Stanley Dean Witter Fund Summary**

	Ytd Dividends	Ytd Cap Gains	Ytd Taxes	Features
MSOW LIQUID ASSET FUND	150,835.32	0.00	0.00	Reinvest Dividends
Totals	150,835.32	0.00	0.00	

For Morgan Stanley Dean Witter Mutual Fund Account Information, call 1-800-860-NEWS(6397).

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MORGAN STANLEY DEAN WITTER

ACTIVE ASSETS ACCOUNT®
FOR YEAR ENDING DECEMBER 31, 2000

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AMERICAN PENSION CORP
ATTN: DOMINIQUE ECK

DUPLICATE

Account Number FA
769 086347 070

Morgan Stanley Dean Witter Fund Summary

MSOW LIQUID ASSET FUND

Following are the Fund's 30-day average annualized yields during the past quarter: October 6.06%, November 6.03% and December 6.07%.

Messages

Please note that sell trades executed, checks written and debit card transactions made in 2000, and which settle early in 2001, will be reflected as 2000 transactions under the Assets, Checking and Debit Card sections of the Activity Details portion of the statement.

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Your Financial Advisor

HERBERT A MENDEL
SENIOR VICE PRESIDENT - INVESTMENTS
MORGAN STANLEY DEAN WITTER
FIVE CONOURSE PARKWAY STE 2000
ATLANTA, GA 30328
(770) 888-2100
For Account Of
MARIO A CRISCITO TTEE

DUPLICATE

Account Number FA
789 086347 070

AAA Customer Service
1-800-868-3328

AMERICAN PENSION CORP
ATTN: DOMINIQUE ECK
DIAG-CLIN-CARD PRIMARY ACCOUNT
1375 PLAINFIELD AVE
WATCHUNG NJ 07060

GAIN AND LOSS SUMMARY

The Gain and Loss Summary is provided for information purposes only and should not be used for tax preparation. The data required to estimate a gain or loss, including cost basis (purchase price), has been provided for most securities purchased through Dean Witter Reynolds Inc. after 1985. Information unavailable through Dean Witter Reynolds Inc. trade history has been or will need to be provided by you through your Financial Advisor. Dean Witter Reynolds Inc. makes every effort to adjust cost basis for capital changes from the day of enrollment and/or the time information is provided. Cost basis is not adjusted for certain events, such as amortization of non-Municipal Bond premiums, exercise of stock options, and receipt of cash in lieu of fractional shares. (Please see your Gain and Loss Summary brochure for more details.) Dean Witter Reynolds Inc. does not guarantee nor will it independently verify the accuracy of this information. Again, the Summary does not conform to tax preparation standards and should not be used for tax. To correct any information or provide missing information, please contact your Financial Advisor.

Unrealized Gain/(Loss)

Stocks

Common Stocks

Quantity	Date Acquired	Unit Cost	Adjusted Total Cost	Market Value	Unrealized Gain/(Loss)	Additional Information
1,800	01-08-99	35.5500	63,990.00	62,660.00	(1,350.00)	Long Term ADJUSTED 04/07/00
300	03-13-97		please provide	5.30		
10,000	01-04-00	162.4877	1,624,877.35	821,875.00	(803,002.35)	Short Term
3,600	08-06-98	4.9631	17,867.34	99,900.00	82,032.66	Long Term
2,000	08-07-98	5.6511	11,302.36	55,500.00	44,197.64	Long Term
10,000	08-11-98	4.8377	48,377.40	277,500.00	229,122.60	Long Term
3,200	08-12-98	5.1507	16,482.34	88,800.00	72,317.66	Long Term
18,000		5.0016	90,029.44	521,700.00	427,670.56	

Government Securities

Treasury Securities

US TSY NOTE	775	01F815	50,000	03-13-97	please provide	50,062.50
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This summary is not part of your account statement. It is for information purposes only and should not be used for tax preparation.

MORGAN STANLEY DEAN WITTER

ACTIVE ASSETS ACCOUNT*
FOR YEAR ENDING DECEMBER 31, 2000

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AMERICAN PENSION CORP
ATTN: DOMINIQUE ECK

DUPLICATE

Account Number FA
768 086347 070

Unrealized Gain/(Loss)	Quantity	Date Acquired	Unit Cost	Adjusted Total Cost	Market Value	Unrealized Gain/(Loss)	Additional Information
Totals for positions with cost data available				157,727.36	157,727.36	0.00	
Total Market Value for all positions					157,727.36	0.00	

P - You have provided the trade history for this transaction; it was not available through Dean Witter Reynolds Inc. records.

The "Total Cost" and "Unit Cost" for Fixed Income Unit Trusts, Mortgage-Backed Securities, and Zero Coupon Bonds has been adjusted to reflect any partial return of principal or capital that may have been paid to you, or accrued interest earned, since your purchase date. In the event that the accumulated total return of principal or capital is greater than the provided original cost, the adjusted cost will be "0.00".

Realized Gain/(Loss)	Quantity	Date Acquired	Date Sold	Adjusted Total Cost	Proceeds	Realized Gain/(Loss)	Additional Information
LUCENT TECHNOLOGIES	5,000	07-22-96	03-04-00	251,377.35	358,487.64	107,110.29	Long Term
LUCENT TECHNOLOGIES	4,000	07-23-96	03-06-00	190,727.36	286,790.11	96,062.75	Long Term
LUCENT TECHNOLOGIES	3,000	07-23-96	03-06-00	145,950.00	215,092.59	69,142.59	Long Term
LUCENT TECHNOLOGIES	6,000	07-24-96	03-06-00	384,282.32	573,540.23	189,257.91	Long Term
LUCENT TECHNOLOGIES	4,000	09-16-96	03-06-00	172,166.10	329,808.63	157,642.53	Long Term
VERITAS SOFTWARE DE	5,000	09-16-96	03-06-00	192,625.00	358,487.64	165,862.64	Long Term
VERITAS SOFTWARE DE	4,000	01-04-00	01-07-00	536,452.32	450,918.07	(85,534.25)	Short Term
VERITAS SOFTWARE DE	3,000	01-04-00	01-07-00	412,450.00	338,188.55	(74,261.45)	Short Term
VERITAS SOFTWARE DE	2,000	01-04-00	01-07-00	402,525.00	336,188.55	(66,336.45)	Short Term
VERITAS SOFTWARE DE	1,000	01-04-00	01-07-00	249,350.00	225,459.04	(23,890.96)	Short Term
VERITAS SOFTWARE DE	2,000	01-04-00	01-07-00	134,175.00	110,321.03	(23,853.97)	Short Term
VERITAS SOFTWARE DE	2,000	01-04-00	01-07-00	344,500.00	275,892.56	(68,607.44)	Short Term
VERITAS SOFTWARE DE	2,000	01-04-00	01-07-00	274,600.00	220,642.05	(53,957.95)	Short Term
VERITAS SOFTWARE DE	1,500	01-04-00	01-07-00	206,700.00	145,481.54	(61,218.46)	Short Term
VERITAS SOFTWARE DE	1,000	01-04-00	01-07-00	137,050.00	110,321.03	(26,728.97)	Short Term
Totals for closing transactions with cost data available				40,053,870.45	44,557,469.36	4,503,598.91	
Total Proceeds					44,557,469.36		

Totals for closing transactions with cost data available

Total Proceeds

This summary is not part of your account statement. It is for information purposes only and should not be used for tax preparation.

MORGAN STANLEY DEAN WITTER

ACTIVE ASSETS ACCOUNT®
FOR YEAR ENDING DECEMBER 31, 2000

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AMERICAN PENSION CORP
ATTN: DOMINIQUE ECK

DUPLICATE

Account Number FA
769 086347 070

<u>Summary</u>		<u>Short Term</u>	<u>Long Term</u>	<u>Total</u>
Unrealized gain/(loss).....		(683,882.35)	824,328.56	(6376,681.79)
Realized gain/(loss) year to date....		(841,679.98)	8785,178.71	8343,498.81

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STATEMENT OF YOUR ACCOUNT
FOR MONTH ENDING MARCH 31, 2000

Your Financial Advisor
HERBERT A MENDEL
SENIOR VICE PRESIDENT - INVESTMENTS
MORGAN STANLEY DEAN WITTER
FIVE CONOURSE PARKWAY STE 2000
ATLANTA, GA 30328
(770) 698-2100

(070391903116)

MARIO A CRISCITO TTEE
DIAGNOSTIC & CLINICAL CARDIOLOGY NP
U/A DTD 04/01/76
11 CHADWICK ROAD
LIVINGSTON NJ 07039 1903

PAGE 1 OF

Account Number PA 070
769 086347

Asset Summary

	Value	% of Assets
Money Market Funds	\$7,769,221.67	66.1%
Stocks	3,917,512.50	33.5
Municipal Bonds	0.00	0.0
Corporate Fixed Income	0.00	0.0
Government Securities	50,562.50	0.4
Mutual Funds	0.00	0.0
Unit Investment Trusts	0.00	0.0
Certificates of Deposit	0.00	0.0
Annuities/Insurance	0.00	0.0
Other	0.00	0.0
Asset Value	\$11,737,296.67	100.0%
Cash	0.37	
Total Asset Value	\$11,737,297.04	

Activity Summary

Total Asset Value February 29 2000	\$10,690,369.59
Cash/Money Market Activity for March	
Closing Balance 2/29	\$5,674,769.59
Credits To Your Account	
Dividends and Interest	33,871.62
Deposits	0.00
Sales Proceeds/Redemptions	2,122,246.85
Other Credits	689.02
Total Credits	2,156,807.49
Debits To Your Account	
Withdrawals	-62,355.04
Funds to Purchase Securities	0.00
Other Debits	0.00
Total Debits	-62,355.04
Closing Balance 3/31	7,769,222.04

Income Summary

	This Month	Year To Date
Money Market Funds	\$33,279.62	\$77,653.33
Stocks	592.00	592.00
Municipal Bonds	0.00	0.00
Corporate Fixed Income	0.00	0.00
Government Securities	0.00	0.00
Mutual Funds	0.00	1,937.50
Unit Investment Trusts	0.00	0.00
Certificates of Deposit	0.00	0.00
Other	0.00	0.00
Total Income	\$33,871.62	\$80,182.83
Taxable Income	\$33,871.62	\$80,182.83
Tax Exempt Income	\$0.00	\$0.00

Net Change Cash/Money Market Activity

Changes in Asset Value for March	
Value of Priced Assets 2/29	\$5,015,600.00
Securities Bought	0.00
Securities Received	0.00
Securities Sold/Redeemed	-2,122,246.85
Securities Delivered	0.00
Transactions at Fund Company	0.00
Change in Value of Priced Assets	1,074,721.85
Value of Priced Assets 3/31	3,968,075.00
Net Change in Asset Value	-1,047,525.00
Total Asset Value as of March 31 2000	\$11,737,297.04

416L0000730833000010776 300364AP01 WEB000416A
 DIAGNOSTIC AND CLINICAL
 CARDIOLOGY
 PA MONEY PURCHASE PENSION PLAN
 4/1/76
 11 CHADWICK ROAD
 LIVINGSTON NJ 07039-1903

Preferred Client Consolidation Summary

October 30 - December 31, 2000

SALOMON SMITH BARNEY INC.
 Your Financial Consultant

ALLAN YARKIN
 1000 E. HALLANDALE
 BEACH BLVD
 HALLANDALE FL 33009
 954-457-1500

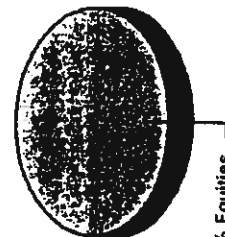
Preferred Client Service Center: 800-232-4454
 Branch: 800-824-0263

We have enclosed statements for the following accounts in your consolidated household. "Total Value Comparison" and "Year to Date Summary" may contain information for previously existing accounts which have been recently consolidated. Unpriced securities are not included in the "Net Value" columns. Unless otherwise indicated, values shown are for "This Period".

Account Number	Abbreviated Name	Account Type	Net Value Last period	Net Value This period	Net Securities Dep/Withdn	Net Capital Deps/Withds	Total Income Txb/Non-Txb/ Appreciation	Unrealized Gain or (Loss)	Adjusted YTD Realized Gain or (Loss)
416-30833	DIAGNOSTIC AND CLINICAL CARDIOLOGY	PCA	\$ 5,719,777.15	\$ 3,557,051.05	\$ 0.00	\$ 0.00	\$ 0.00 (\$ 2,162,769.42)	\$ 2,898,893.45	\$ 0.00 ST
Total			\$ 5,719,777.15	\$ 3,557,051.05	\$ 0.00	\$ 0.00	\$ 0.00 (\$ 2,162,769.42)	\$ 2,898,893.45	\$ 0.00 ST
							\$ 43.32		\$ 0.00 LT

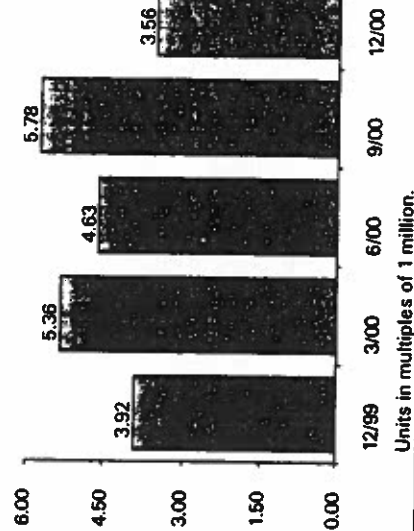
Year to Date Summary		
Beginning total net value as of 12/31/99		\$ 3,924,549.92
Net security deposits/withdrawals (year to date)	0.00	
Net cash deposits/withdrawals (year to date)	0.00	
Total income (year to date)	183.92	
Asset appreciation (year to date)	(367,682.79)	
Ending total net value 12/29/00		\$ 3,557,051.05
Year to date total return		(367,498.87)

Current Total Asset Allocation Summary



Cash represents less than 0.5% of total assets.

Total Value Comparison



SALOMON SMITH BARNEY

A member of Citigroup

Ref: 00010776 00093651

Preferred Client Statement

October 30 - December 31, 2000

Page 2 of 5

416L0000730833000010776 300364AP01 WEB000416A
DIAGNOSTIC AND CLINICAL
CARDIOLOGY
PA MONEY PURCHASE PENSION PLAN
4/1/76
11 CHADWICK ROAD
LIVINGSTON NJ 07039-1903

SALOMON SMITH BARNEY INC.
Your Financial Consultant
ALLAN YARKIN
1000 E. HALLANDALE
BEACH BLVD
HALLANDALE FL 33009
954-457-1500
Preferred Client Service Center: 800-232-4454
Branch: 800-624-0263
Account number 416-30833-16 007

Account value	Last period	This period	%
Money funds	\$ 2,121.65	\$ 2,149.45	.08
Accrued money fund dividends	4.92	0.00	
Common stocks & options	5,717,650.58	3,554,901.80	99.94
Net value	\$ 5,719,777.15	\$ 3,557,051.05	100

Earnings summary	This period	This year
Dividends	\$ 15.52	\$ 62.06
Money funds earnings	27.80	121.86
Total	\$ 43.32	\$ 183.92

Gain/loss summary	This period	This year
Unrealized gain or (loss)	\$ 2,898,893.45	<i>Not applicable</i>

EXHIBIT 50

American Pension Corporation

1375 PLAINFIELD AVENUE • WATCHUNG, NEW JERSEY 07060
(908) 757-5151 • Facsimile (908) 757-9644

November 23, 1999

Mario A. Criscito, MD
11 Chadwick Road
Livingston, NJ 07039

RE: Money Purchase Plan

Dear Dr. Criscito:

I am enclosing the letter you requested for the active participants in the pension plan.

In addition, I have enclosed election forms for all terminated employees. As we discussed, the forms must be completed prior to any distribution. If someone requests a lump sum distribution, you will be required to withhold 20% for federal taxes.

Please give me a call if you have any questions.

Regards,

Dominique Sandra Eck
Pension Consultant

DSE/dml
Enclosures:

P.S. You may want your broker to speak with your employees and have their accounts set up with him to make things a little easier for you as well as us.



Diagnostic & Clinical Cardiology, PA
769 Northfield Avenue
West Orange, New Jersey 07052
RE: Diagnostic & Clinical Cardiology, PA Money Purchase Plan

Dear Participant:

You have an account in the Diagnostic & Clinical Cardiology, P.A. Money Purchase Plan.

Under Internal Revenue Code Sec. 404(c), each participant can now direct their own investments.

The Plan has now been amended to establish separate accounts for each participant, and to allow each participant to self-direct their account (investments). The account must be set up under the name of the plan with Dr. Criscito as the Trustee, and the plan ID #22-2323990 FBO (your name).

Sincerely yours,

Mario Criscito, M.D.

EXHIBIT 51

08/28/2007 15:50 908-757-9644

American Pension Corporation

1375 PLAINFIELD AVENUE • WATCHUNG, NEW JERSEY 07069
(908) 757-5151 • Facsimile (908) 757-9644

August 28, 2007

Anthony Casella, M.D.
Diagnostic & Clinical Cardiology, P.A.
769 Northfield Avenue, Suite 220
West Orange, New Jersey 07052

Re: Mary Ann Canales



Dear Dr. Casella:

After you left, Dominique and I looked over the files to find out what happened with Mary Ann Canales. To the best of my knowledge, the situation is this:

When we prepared the 1998 report, we inadvertently forfeited part of Mary Ann's account. As you know, the plan previously had a Vesting Schedule, but in 1995 the Vesting Schedule was changed, and everyone was 100% vested. As a result of the forfeiture, Mary Ann's account balance listed on the December 31, 1998 Report was \$4,669.97.

When we did the 1999 Report, we realized the mistake and restored the forfeiture, plus interest, to Mary Ann's account. We advised Dr. Criscito that we had made an error and that Maryann was entitled to an additional \$9,424.70. The 1999 Report was prepared January 13, 2000. The Report was prepared early in 2000 to enable Dr. Criscito to distribute benefits and transfer account balances to segregated accounts.

On October 10, 2001, Dr. Criscito FAX'd a list of distributions that were made from the plan in 2000. This information was required for us to complete the 2000 Report. The list indicated that \$4,669.97 was distributed to Mary Ann Canales' IRA. Dominique advised Dr. Criscito that Mary Ann was entitled to an additional \$9,424.70. At that point, Dr. Criscito indicated that he was only going to pay her \$4,669.97, and he instructed Dominique to zero out the \$9,424.70 adjustment, which she did.

I am enclosing a copy of Dominique's cover letter dated January 13, 2000 advising Dr. Criscito of the adjustment. Unfortunately, to add to the confusion, the cover letter and report incorrectly mention Maryann Dimitrion instead of Mary Ann Canales. The adjustment was, however, on Mary Ann Canales' account and Dr. Criscito was aware of that. There was no adjustment to Maryann Dimitrion's account. We simply used the wrong last name on the cover letter.

25031

American Pension Corporation

- 2 -

Please note that the cover letter also mentions an adjustment on the account of Wisteria Banks. Wisteria's account was corrected and she did receive her proper distribution.

If you have any questions, please feel free to call me or Dominique.

Best regards,



Brian P. Warnock
Vice-President

BPW/sjl

Enclosure

EXHIBIT 52

Abar Pension Services, Inc.

PENSION, PROFIT SHARING, 401(K) PLAN
DESIGN AND ADMINISTRATION

MIKEL R. UCHITEL, FSA, EA, MSPA

MARK SHEMTOB, ASA, EA, MSPA

SCOTT M. FEIT, CPC, CPA, OKA

PHILIP D. COFIELD, EA, MSPA

Stephen M. Charme, Esq.

Witman, Stadtmauer & Michaels, P.A.

26 Columbia Turnpike

Florham Park, NJ 07932

25B VREELAND ROAD - SUITE 209

FLORHAM PARK, NJ 07932-1900

(973) 660-2100

FAX: (973) 660-2111

abar@abarpensioninc.com

May 28, 2009

Re: Diagnostic & Clinical Cardiology, P.A.
Profit Sharing Plan

Dear Mr. Charme:

The following is a summary of the work performed by my office with regard to the Diagnostic & Clinical Cardiology, P.A. Profit Sharing Plan (formerly the Diagnostic and Clinical Cardiology, P.A. Money Purchase Pension Plan, which was converted into the profit sharing plan in 2005). For the plan year ending December 31, 1995, we determined the ending balance of each participant's account. We started with the participants' balances as of December 31, 1994, which we obtained from the 1994 valuation of American Pension Corporation, whom you have advised was the third party administrator for the plan. We updated each participant's account with any contributions and distributions for the year. A gain (or loss) was allocated to each participant's account based upon the performance of the funds in the plan. We then performed the same procedure for the plan years ending December 31, 1996, 1997, 1998 and 1999. The summaries of the participants' accounts for the years 1995 to 1999 are attached (Exhibit 1). We based the fair market value of the assets for each year upon the investment company's brokerage statements if they were available, or if not we used the valuations of American Pension Corporation.

The 1999 valuation has been revised subsequent to the original report prepared by my office. Since the initial report was prepared, information was obtained on two investments that should have been included in the valuation of the commingled account. These investments, the AIM Global Telecomm Fund and the Latin American Fund had market values of \$107,221 and \$43,254.45, respectively, as of December 31, 1999.

For the 2000 plan year, we updated each participant's account to reflect the distributions made from the pooled account to their segregated account (Exhibit 2). For those participants who did not receive the full amount of their distribution to which they were entitled, and therefore still had a balance in the pooled account after the distributions were made, we updated their account balance with interest to March 31, 2009. The interest was calculated using the Voluntary Fiduciary Correction Program (VFCP) Online Calculator provided by the U.S. Department of Labor. The interest calculation was updated since the last calculation prepared to reflect a distribution of \$26,202.74 on May 5, 2008 to a participant in the plan.

Based upon our analysis, we concluded that the participants in the pooled account, excluding Dr. Mario A. Criscito, were entitled to an additional \$1,681,572.65 as of the beginning of 2000. As of March 31 2009, the value of their portion of the pooled account, together with interest, accumulated to \$3,674,844.26. (Exhibit 3).

Please call if you should have any questions.

Sincerely,

ABAR PENSION SERVICES, INC.

A handwritten signature in black ink, appearing to read "Scott M. Feit", written over a horizontal line.

Scott M. Feit, CPC, CPA, QPA, QKA

/sf

EXHIBIT 1

Diagnostic & Clinical Cardiology, P.A. Money Purchase Plan
Summary of Participant Accounts
From January 1, 1995 to December 31, 1995

<u>Participant Name</u>	<u>Prior Balance</u>	<u>Contribution</u>	<u>Gains/Losses</u>	<u>Ending Balance</u>	<u>%</u>	<u>-----Vested----- Balance</u>
Campos, Mary Ann						
Employer	3,870.90	3,897.08	547.30	8,315.28	100%	8,315.28
Cortes, Maria						
Employer	8,151.38	6,188.00	1,152.50	15,491.88	100%	15,491.88
Criscito, Mario						
Employer	1,998,874.30	30,000.00	282,615.86	2,311,490.16	100%	2,311,490.16
Rollover	418,316.33	0.00	59,144.70	477,461.03	100%	477,461.03
Total	2,417,190.63	30,000.00	341,760.56	2,788,951.19		2,788,951.19
Cruz, Awylda						
Employer	22,648.23	5,599.12	3,202.18	31,449.53	100%	31,449.53
Difazio (Gencarelli), Lisa						
Employer	9,682.73	5,399.20	1,369.02	16,450.95	100%	16,450.95
Foggio, Antoinette						
Employer	5,138.70	0.00	726.55	5,865.25	100%	5,865.25
Rollover	7,116.20	0.00	1,006.14	8,122.34	100%	8,122.34
Total	12,254.90	0.00	1,732.69	13,987.59		13,987.59
Fox (Vitale), Dianne						
Employer	16,986.58	2,919.41	2,401.69	22,307.68	100%	22,307.68
Gonnella, Renee						
Employer	971.75	2,704.36	137.39	3,813.50	100%	3,813.50
Hawthorne, Keith						
Employer	60,729.54	30,000.00	8,586.39	99,315.93	100%	99,315.93
Hayes, Barbara						
Employer	19,346.07	0.00	2,735.29	22,081.36	100%	22,081.36
Rollover	4,866.83	0.00	688.11	5,554.94	100%	5,554.94
Total	24,212.90	0.00	3,423.40	27,636.30		27,636.30
Grand Total	2,576,699.54	86,707.17	364,313.12	3,027,719.83		3,027,719.83

Diagnostic & Clinical Cardiology, P.A. Money Purchase Plan
Summary of Participant Accounts
From January 1, 1996 to December 31, 1996

<u>Participant Name</u>	<u>Prior Balance</u>	<u>Contribution</u>	<u>Gains/Losses</u>	<u>Ending Balance</u>	<u>%</u>	<u>-----Vested----- Balance</u>
Campos, Mary Ann						
Employer	8,315.28	1,299.48	561.75	10,176.51	100%	10,176.51
Cortes, Maria						
Employer	15,491.88	6,545.00	1,046.58	23,083.46	100%	23,083.46
Criscito, Mario						
Employer	2,311,490.16	30,000.00	156,157.06	2,497,647.22	100%	2,497,647.22
Rollover	477,461.03	0.00	32,255.78	509,716.81	100%	509,716.81
Total	2,788,951.19	30,000.00	188,412.84	3,007,364.03		3,007,364.03
Cruz, Awylda						
Employer	31,449.53	7,055.00	2,124.63	40,629.16	100%	40,629.16
Difazio (Gencarelli), Lisa						
Employer	16,450.95	6,562.00	1,111.37	24,124.32	100%	24,124.32
Foggio, Antoinette						
Employer	5,865.25	0.00	396.24	6,261.49	100%	6,261.49
Rollover	8,122.34	0.00	548.72	8,671.06	100%	8,671.06
Total	13,987.59	0.00	944.96	14,932.55		14,932.55
Fox (Vitale), Dianne						
Employer	22,307.68	1,122.00	1,507.04	24,936.72	100%	24,936.72
Gonnella, Renee						
Employer	3,813.50	4,420.00	257.63	8,491.13	100%	8,491.13
Hawthorne, Keith						
Employer	99,315.93	30,000.00	6,709.48	136,025.41	100%	136,025.41
Hayes, Barbara						
Employer	22,081.36	0.00	1,491.75	23,573.11	100%	23,573.11
Rollover	5,554.94	0.00	375.27	5,930.21	100%	5,930.21
Total	27,636.30	0.00	1,867.02	29,503.32		29,503.32
Roelke, Marc						
Employer	0.00	30,000.00	0.00	30,000.00	100%	30,000.00

Diagnostic & Clinical Cardiology, P.A. Money Purchase Plan
Summary of Participant Accounts
From January 1, 1996 to December 31, 1996

<u>Participant Name</u>	<u>Prior Balance</u>	<u>Contribution</u>	<u>Gains/Losses</u>	<u>Ending Balance</u>	<u>%</u>	<u>-----Vested----- Balance</u>
Grand Total	3,027,719.83	117,003.48	204,543.30	3,349,266.61		3,349,266.61

Diagnostic & Clinical Cardiology, P.A. Money Purchase Plan
Summary of Participant Accounts
From January 1, 1997 to December 31, 1997

<u>Participant Name</u>	<u>Prior Balance</u>	<u>Contribution</u>	<u>Gains/Losses</u>	<u>Ending Balance</u>	<u>%</u>	<u>-----Vested----- Balance</u>
Banks, Wisteria						
Employer	0.00	4,142.22	0.00	4,142.22	100%	4,142.22
Brown, Mark						
Employer	0.00	13,500.14	0.00	13,500.14	100%	13,500.14
Campos, Mary Ann						
Employer	10,176.51	0.00	1,235.57	11,412.08	100%	11,412.08
Cortes, Maria						
Employer	23,083.46	6,790.48	2,802.65	32,676.59	100%	32,676.59
Criscito, Mario						
Employer	2,497,647.22	30,000.00	303,248.77	2,830,895.99	100%	2,830,895.99
Rollover	509,716.81	0.00	61,886.64	571,603.45	100%	571,603.45
Total	3,007,364.03	30,000.00	365,135.41	3,402,499.44		3,402,499.44
Cruz, Awylda						
Employer	40,629.16	7,283.14	4,932.94	52,845.24	100%	52,845.24
Difazio (Gencarelli), Lisa						
Employer	24,124.32	7,130.82	2,929.02	34,184.16	100%	34,184.16
Dimitrion, Marianne						
Employer	0.00	4,667.52	0.00	4,667.52	100%	4,667.52
Foggio, Antoinette						
Employer	6,261.49	0.00	760.23	7,021.72	100%	7,021.72
Rollover	8,671.06	0.00	1,052.79	9,723.85	100%	9,723.85
Total	14,932.55	0.00	1,813.02	16,745.57		16,745.57
Fox (Vitale), Dianne						
Employer	24,936.72	0.00	3,027.66	27,964.38	100%	27,964.38
Gonnella, Renee						
Employer	8,491.13	4,260.03	1,030.94	13,782.10	100%	13,782.10

Diagnostic & Clinical Cardiology, P.A. Money Purchase Plan
Summary of Participant Accounts
From January 1, 1997 to December 31, 1997

<u>Participant Name</u>	<u>Prior Balance</u>	<u>Contribution</u>	<u>Gains/Losses</u>	<u>Ending Balance</u>	<u>%</u>	<u>-----Vested----- Balance</u>
Hawthorne, Keith						
Employer	136,025.41	30,000.00	16,515.36	182,540.77	100%	182,540.77
Hayes, Barbara						
Employer	23,573.11	0.00	2,862.10	26,435.21	100%	26,435.21
Rollover	5,930.21	0.00	720.01	6,650.22	100%	6,650.22
Total	29,503.32	0.00	3,582.11	33,085.43		33,085.43
Roelke, Marc						
Employer	30,000.00	30,000.00	3,642.41	63,642.41	100%	63,642.41
Grand Total	3,349,266.61	137,774.35	406,647.09	3,893,688.05		3,893,688.05

Diagnostic & Clinical Cardiology, P.A. Money Purchase Plan
Summary of Participant Accounts
From January 1, 1998 to December 31, 1998

<u>Participant Name</u>	<u>Prior Balance</u>	<u>Contribution</u>	<u>Gains / Losses</u>	<u>Transfers</u>	<u>Distributions</u>	<u>Ending Balance</u>	<u>%</u>	<u>-----Vested----- Balance</u>
Banks, Wisteria								
Employer	4,142.22	0.00	566.15	0.00	0.00	4,708.37	100%	4,708.37
Brown, Mark								
Employer	13,500.14	14,478.21	1,845.16	0.00	0.00	29,823.51	100%	29,823.51
Campos, Mary Ann								
Employer	11,412.08	0.00	1,559.77	0.00	0.00	12,971.85	100%	12,971.85
Cortes, Maria								
Employer	32,676.59	7,144.42	4,466.15	0.00	0.00	44,287.16	100%	44,287.16
Criscito, Mario								
Employer	2,830,895.99	30,000.00	373,251.61	0.00	(100,000.00)	3,134,147.60	100%	3,134,147.60
Rollover	571,603.45	0.00	78,125.24	0.00	0.00	649,728.69	100%	649,728.69
Total	3,402,499.44	30,000.00	451,376.85	0.00	(100,000.00)	3,783,876.29		3,783,876.29
Cruz, Awylda								
Employer	52,845.24	0.00	7,222.75	0.00	0.00	60,067.99	100%	60,067.99
Difazio (Gencarelli), Lisa								
Employer	34,184.16	7,119.09	4,672.20	0.00	0.00	45,975.45	100%	45,975.45
Dimitrion, Marianne								
Employer	4,667.52	3,488.23	637.94	0.00	0.00	8,793.69	100%	8,793.69
Foggio, Antoinette								
Employer	7,021.72	0.00	959.71	0.00	0.00	7,981.43	100%	7,981.43
Rollover	9,723.85	0.00	1,329.03	0.00	0.00	11,052.88	100%	11,052.88
Total	16,745.57	0.00	2,288.74	0.00	0.00	19,034.31		19,034.31
Fox (Vitale), Dianne								
Employer	27,964.38	0.00	3,822.10	0.00	0.00	31,786.48	100%	31,786.48
Gonnella, Renee								
Employer	13,782.10	2,223.26	1,883.70	0.00	0.00	17,889.06	100%	17,889.06

Diagnostic & Clinical Cardiology, P.A. Money Purchase Plan
Summary of Participant Accounts
From January 1, 1998 to December 31, 1998

<u>Participant Name</u>	<u>Prior Balance</u>	<u>Contribution</u>	<u>Gains / Losses</u>	<u>Transfers</u>	<u>Distributions</u>	<u>Ending Balance</u>	<u>%</u>	<u>-----Vested----- Balance</u>
Hawthorne, Keith								
Employer	182,540.77	30,000.00	24,949.18	0.00	0.00	237,489.95	100%	237,489.95
Hayes, Barbara								
Employer	26,435.21	0.00	3,613.10	0.00	0.00	30,048.31	100%	30,048.31
Rollover	6,650.22	0.00	908.93	0.00	0.00	7,559.15	100%	7,559.15
Total	33,085.43	0.00	4,522.03	0.00	0.00	37,607.46		37,607.46
Roberts, Kim								
Employer	0.00	3,847.27	0.00	0.00	0.00	3,847.27	100%	3,847.27
Roelke, Marc								
Employer	63,642.41	0.00	497.84	(60,000.00)	0.00	4,140.25	100%	4,140.25
Grand Total	3,893,688.05	98,300.48	510,310.56	(60,000.00)	(100,000.00)	4,342,299.09		4,342,299.09

Diagnostic & Clinical Cardiology, P.A. Money Purchase Plan
Summary of Participant Accounts
From January 1, 1999 to December 31, 1999

<u>Participant Name</u>	<u>Prior Balance</u>	<u>Contribution</u>	<u>Gains / Losses</u>	<u>Distributions</u>	<u>Ending Balance</u>	<u>%</u>	<u>—Vested— Balance</u>
Banks, Wisteria							
Employer	4,708.37	0.00	14,450.61	0.00	19,158.98	100%	19,158.98
Brown, Mark							
Employer	29,823.51	16,491.56	91,532.33	0.00	137,847.40	100%	137,847.40
Campos, Mary Ann							
Employer	12,971.85	0.00	39,812.34	0.00	52,784.19	100%	52,784.19
Chaaban, Fadi							
Employer	0.00	30,000.00	0.00	0.00	30,000.00	100%	30,000.00
Cortes, Maria							
Employer	44,287.16	6,536.84	135,923.19	0.00	186,747.19	100%	186,747.19
Criscito, Mario							
Employer	3,134,147.60	30,000.00	9,235,474.85	(125,000.00)	12,274,622.45	100%	12,274,622.45
Rollover	649,728.69	0.00	1,994,103.90	0.00	2,643,832.59	100%	2,643,832.59
Total	3,783,876.29	30,000.00	11,229,578.75	(125,000.00)	14,918,455.04		14,918,455.04
Cruz, Awylda							
Employer	60,067.99	0.00	184,356.66	0.00	244,424.65	100%	244,424.65
Difazio (Gencarelli), Lisa							
Employer	45,975.45	0.00	141,104.78	0.00	187,080.23	100%	187,080.23
Dimitrion, Marianne							
Employer	8,793.69	0.00	26,989.01	0.00	35,782.70	100%	35,782.70
Foggio, Antoinette							
Employer	7,981.43	0.00	24,496.07	0.00	32,477.50	100%	32,477.50
Rollover	11,052.88	0.00	33,922.76	0.00	44,975.64	100%	44,975.64
Total	19,034.31	0.00	58,418.83	0.00	77,453.14		77,453.14
Fox (Vitale), Dianne							
Employer	31,786.48	0.00	97,556.94	0.00	129,343.42	100%	129,343.42

**Diagnostic & Clinical Cardiology, P.A. Money Purchase Plan
Summary of Participant Accounts
From January 1, 1999 to December 31, 1999**

<u>Participant Name</u>	<u>Prior Balance</u>	<u>Contribution</u>	<u>Gains / Losses</u>	<u>Distributions</u>	<u>Ending Balance</u>	<u>%</u>	<u>Vested Balance</u>
Gonnella, Renee							
Employer	17,889.06	345.39	54,903.91	0.00	73,138.36	100%	73,138.36
Hawthorne, Keith							
Employer	237,489.95	30,000.00	728,888.30	0.00	996,378.25	100%	996,378.25
Hayes, Barbara							
Employer	30,048.31	0.00	92,222.26	0.00	122,270.57	100%	122,270.57
Rollover	7,559.15	0.00	23,200.04	0.00	30,759.19	100%	30,759.19
Total	37,607.46	0.00	115,422.30	0.00	153,029.76		153,029.76
McAllister, Charese							
Employer	0.00	5,623.09	0.00	0.00	5,623.09	100%	5,623.09
Roberts, Kim							
Employer	3,847.27	0.00	11,807.78	0.00	15,655.05	100%	15,655.05
Roelke, Marc							
Employer	4,140.25	0.00	12,706.98	0.00	16,847.23	100%	16,847.23
Grand Total	4,342,299.09	118,996.88	12,943,452.71	(125,000.00)	17,279,748.68		17,279,748.68

EXHIBIT 2

Diagnostic & Clinical Cardiology, P.A. Money Purchase Plan
Summary of Participant Accounts
From January 1, 2000 to December 31, 2000

<u>Participant Name</u>	<u>Prior Balance</u>	<u>Contribution</u>	<u>Gains / Losses</u>	<u>Transfers</u>	<u>Distributions</u>	<u>Ending Balance</u>	<u>%</u>	<u>Vested Balance</u>
Banks, Wisteria								
Employer	19,158.98	0.00	0.00	0.00	(5,748.63)	13,410.35	100%	13,410.35
Brown, Mark								
Employer	137,847.40	0.00	0.00	(52,706.15)	0.00	85,141.25	100%	85,141.25
Campos, Mary Ann								
Employer	52,784.19	0.00	0.00	(4,669.97)	0.00	48,114.22	100%	48,114.22
Chaaban, Fadi								
Employer	30,000.00	0.00	0.00	(30,000.00)	0.00	0.00	100%	0.00
Cortes, Maria								
Employer	186,747.19	0.00	0.00	(56,606.41)	0.00	130,140.78	100%	130,140.78
Criscito, Mario								
Employer	12,274,622.45	0.00	0.00	0.00	(1,775,000.00)	10,499,622.45	100%	10,499,622.45
Rollover	2,643,832.59	0.00	0.00	0.00	0.00	2,643,832.59	100%	2,643,832.59
Total	14,918,455.04	0.00	0.00	0.00	(1,775,000.00)	13,143,455.04		13,143,455.04
Cruz, Awylda								
Employer	244,424.65	0.00	0.00	0.00	(65,894.79)	178,529.86	100%	178,529.86
Difazio (Gencarelli), Lisa								
Employer	187,080.23	0.00	0.00	0.00	(51,875.58)	135,204.65	100%	135,204.65
Dimitrion, Marianne								
Employer	35,782.70	0.00	0.00	0.00	(10,688.83)	25,093.87	100%	25,093.87
Foggio, Antoinette								
Employer	32,477.50	0.00	0.00	0.00	0.00	32,477.50	100%	32,477.50
Rollover	44,975.64	0.00	0.00	0.00	0.00	44,975.64	100%	44,975.64
Total	77,453.14	0.00	0.00	0.00	0.00	77,453.14		77,453.14
Fox (Vitale), Dianne								
Employer	129,343.42	0.00	0.00	0.00	(34,024.59)	95,318.83	100%	95,318.83
Gonnella, Renee								
Employer	73,138.36	0.00	0.00	0.00	(20,861.51)	52,276.85	100%	52,276.85

Diagnostic & Clinical Cardiology, P.A. Money Purchase Plan
Summary of Participant Accounts
From January 1, 2000 to December 31, 2000

<u>Participant Name</u>	<u>Prior Balance</u>	<u>Contribution</u>	<u>Gains / Losses</u>	<u>Transfers</u>	<u>Distributions</u>	<u>Ending Balance</u>	<u>%</u>	<u>-----Vested----- Balance</u>
Hawthorne, Keith								
Employer	996,378.25	0.00	0.00	(295,663.09)	0.00	700,715.16	100%	700,715.16
Hayes, Barbara								
Employer	122,270.57	0.00	0.00	0.00	(39,973.51)	82,297.06	100%	82,297.06
Rollover	30,759.19	0.00	0.00	0.00	0.00	30,759.19	100%	30,759.19
Total	153,029.76	0.00	0.00	0.00	(39,973.51)	113,056.25		113,056.25
McAllister, Charese								
Employer	5,623.09	0.00	0.00	(5,623.09)	0.00	0.00	100%	0.00
Roberts, Kim								
Employer	15,655.05	0.00	0.00	0.00	(4,644.65)	11,010.40	100%	11,010.40
Roelke, Marc								
Employer	16,847.23	0.00	0.00	(740.19)	0.00	16,107.04	100%	16,107.04
Grand Total	17,279,748.68	0.00	0.00	(446,008.90)	(2,008,712.09)	14,825,027.69		14,825,027.69

This summary excludes any contributions and earnings allocation for the 2000 plan year.

Dr. Criscito's balance net of the pooled account distributions that took place in the year 2000	= \$13,143,455.04
All other participant balances net of the pooled account distributions that took place in the year 2000	= <u>\$ 1,681,572.65</u>
Total	<u>\$14,825,027.69</u>

EXHIBIT 3

**Diagnostic & Clinical Cardiology, P.A. Money Purchase Plan
Calculation of Lost Interest**

Start	End	Days	Present Value	Interest Rate	Future Value
1/1/2000	3/31/2000	90	\$1,681,572.65	10%	\$1,723,429.61
3/31/2000	6/30/2000	91	\$1,723,429.61	11%	\$1,771,208.14
6/30/2000	9/30/2000	92	\$1,771,208.14	11%	\$1,820,858.33
9/30/2000	12/31/2000	92	\$1,820,858.33	11%	\$1,871,900.30
12/31/2000	3/31/2001	90	\$1,871,900.30	11%	\$1,923,359.35
3/31/2001	6/30/2001	91	\$1,923,359.35	10%	\$1,971,907.62
6/30/2001	9/30/2001	92	\$1,971,907.62	9%	\$2,017,145.81
9/30/2001	12/31/2001	92	\$2,017,145.81	9%	\$2,063,421.82
12/31/2001	3/31/2002	90	\$2,063,421.82	8%	\$2,104,524.49
3/31/2002	6/30/2002	91	\$2,104,524.49	8%	\$2,146,916.37
6/30/2002	9/30/2002	92	\$2,146,916.37	8%	\$2,190,642.20
9/30/2002	12/31/2002	92	\$2,190,642.20	8%	\$2,235,258.58
12/31/2002	3/31/2003	90	\$2,235,258.58	7%	\$2,274,170.87
3/31/2003	6/30/2003	91	\$2,274,170.87	7%	\$2,314,204.31
6/30/2003	9/30/2003	92	\$2,314,204.31	7%	\$2,355,394.10
9/30/2003	12/31/2003	92	\$2,355,394.10	6%	\$2,391,283.15
12/31/2003	3/31/2004	91	\$2,391,283.15	6%	\$2,427,220.84
3/31/2004	6/30/2004	91	\$2,427,220.84	7%	\$2,469,830.74
6/30/2004	9/30/2004	92	\$2,469,830.74	6%	\$2,507,359.87
9/30/2004	12/31/2004	92	\$2,507,359.87	7%	\$2,551,864.58
12/31/2004	3/31/2005	90	\$2,551,864.58	7%	\$2,596,288.48
3/31/2005	6/30/2005	91	\$2,596,288.48	8%	\$2,648,586.07
6/30/2005	9/30/2005	92	\$2,648,586.07	8%	\$2,702,529.30
9/30/2005	12/31/2005	92	\$2,702,529.30	9%	\$2,764,528.92
12/31/2005	3/31/2006	90	\$2,764,528.92	9%	\$2,826,556.80
3/31/2006	6/30/2006	91	\$2,826,556.80	9%	\$2,890,689.00
6/30/2006	9/30/2006	92	\$2,890,689.00	10%	\$2,964,465.99
9/30/2006	12/31/2006	92	\$2,964,465.99	10%	\$3,040,125.93
12/31/2006	3/31/2007	90	\$3,040,125.93	10%	\$3,116,009.25
3/31/2007	6/30/2007	91	\$3,116,009.25	10%	\$3,194,661.67
6/30/2007	9/30/2007	92	\$3,194,661.67	10%	\$3,276,196.73
9/30/2007	12/31/2007	92	\$3,276,196.73	10%	\$3,359,812.75
12/31/2007	3/31/2008	91	\$3,359,812.75	9%	\$3,435,833.48
3/31/2008	5/5/2008	35	\$3,435,833.48	8%	\$3,462,216.45
5/5/2008	distribution of \$26,202.74 to Antoinette Andriola				\$3,436,013.71
5/5/2008	6/30/2008	56	\$3,436,013.71	8%	\$3,478,325.83
6/30/2008	9/30/2008	92	\$3,478,325.83	7%	\$3,540,064.83
9/30/2008	12/31/2008	92	\$3,540,064.83	8%	\$3,611,965.68
12/31/2008	3/31/2009	90	\$3,611,965.68	7%	\$3,674,844.26

Interest = \$1,993,272

Interest was calculated using the Voluntary Fiduciary Correction Program (VFCP)
Online Calculator provided by the U.S. Department of Labor - EBSA.
Using IRC 6621(c)(1) underpayment rates